

SECOND REGULAR SESSION

# SENATE BILL NO. 987

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

4844S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

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

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

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2 repealed and two new sections enacted in lieu thereof, to be  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

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

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

7 (2) "Applicant", any person applying for a license  
8 authorized under the provisions of sections 313.800 to  
9 313.850;

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

13 (4) "Capital, cultural, and special law enforcement  
14 purpose expenditures" shall include any disbursement,  
15 including disbursements for principal, interest, and costs  
16 of issuance and trustee administration related to any  
17 indebtedness, for the acquisition of land, land  
18 improvements, buildings and building improvements, vehicles,

19 machinery, equipment, works of art, intersections, signing,  
20 signalization, parking lot, bus stop, station, garage,  
21 terminal, hanger, shelter, dock, wharf, rest area, river  
22 port, airport, light rail, railroad, other mass transit,  
23 pedestrian shopping malls and plazas, parks, lawns, trees,  
24 and other landscape, convention center, roads, traffic  
25 control devices, sidewalks, alleys, ramps, tunnels,  
26 overpasses and underpasses, utilities, streetscape,  
27 lighting, trash receptacles, marquees, paintings, murals,  
28 fountains, sculptures, water and sewer systems, dams,  
29 drainage systems, creek bank restoration, any asset with a  
30 useful life greater than one year, cultural events, and any  
31 expenditure related to a law enforcement officer deployed as  
32 horse-mounted patrol, school resource or drug awareness  
33 resistance education (D.A.R.E) officer;

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

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

38 (7) "Credit instrument", a written check, negotiable  
39 instrument, automatic bank draft or other authorization from  
40 a qualified person to an excursion gambling boat licensee or  
41 any of its affiliated companies licensed by the commission  
42 authorizing the licensee to withdraw the amount of credit  
43 extended by the licensee to such person from the qualified  
44 person's banking account in an amount determined under  
45 section 313.817 on or after a date certain of not more than  
46 thirty days from the date the credit was extended, and  
47 includes any such writing taken in consolidation, redemption  
48 or payment of a previous credit instrument, but does not  
49 include any interest-bearing installment loan or other  
50 extension of credit secured by collateral;

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

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

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

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

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

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

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

(15) "Games of skill", any gambling game in which there is an opportunity for the player to use the player's 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;

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

(17) "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;

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

(19) "Mississippi River" and "Missouri River", the water, bed and banks of those rivers, including any space filled wholly or partially by the water of those rivers 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;

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

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

117           2. (1) In addition to the games of skill defined in  
118 this section, the commission may approve other games of  
119 skill upon receiving a petition requesting approval of a  
120 gambling game from any applicant or licensee. The  
121 commission may set the matter for hearing by serving the  
122 applicant or licensee with written notice of the time and  
123 place of the hearing not less than five days prior to the  
124 date of the hearing and posting a public notice at each  
125 commission office. The commission shall require the  
126 applicant or licensee to pay the cost of placing a notice in  
127 a newspaper of general circulation in the applicant's or  
128 licensee's home dock city or county. The burden of proof  
129 that the gambling game is a game of skill is at all times on  
130 the petitioner. The petitioner shall have the affirmative  
131 responsibility of establishing the petitioner's case by a  
132 preponderance of evidence including:

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

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

137           (2) All testimony shall be given under oath or  
138 affirmation. Any citizen of this state shall have the  
139 opportunity to testify on the merits of the petition. The  
140 commission may subpoena witnesses to offer expert  
141 testimony. Upon conclusion of the hearing, the commission  
142 shall evaluate the record of the hearing and issue written  
143 findings of fact that shall be based exclusively on the  
144 evidence and on matters officially noticed. The commission  
145 shall then render a written decision on the merits which  
146 shall contain findings of fact, conclusions of law and a

147 final commission order. The final commission order shall be  
148 within thirty days of the hearing. Copies of the final  
149 commission order shall be served on the petitioner by  
150 certified or overnight express mail, postage prepaid, or by  
151 personal delivery.

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

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

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

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

28           (4) To enter the premises of excursion gambling boats,  
29 facilities, or other places of business of a licensee within  
30 this state to determine compliance with sections 313.800 to  
31 313.850;

32           (5) To investigate alleged violations of sections  
33 313.800 to 313.850 or the commission rules, orders, or final  
34 decisions;

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

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

52           (8) To require the removal from the premises of a  
53 licensee, an employee of a licensee, or a holder of an  
54 occupational license for a violation of sections 313.800 to  
55 313.850 or a commission rule or engaging in a fraudulent  
56 practice;

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

59           (10) To issue subpoenas for the attendance of  
60 witnesses and subpoenas duces tecum for the production of  
61 books, records, and other pertinent documents, and to  
62 administer oaths and affirmations to the witnesses, when, in  
63 the judgment of the commission, it is necessary to enforce  
64 sections 313.800 to 313.850 or the commission rules;

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

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

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

75           (14) To require excursion gambling boat licensees to  
76 develop a system, approved by the commission, that allows  
77 patrons the option to prohibit the excursion gambling boat  
78 licensee from using identifying information for marketing  
79 purposes. The provisions of this subdivision shall apply  
80 only to patrons giving identifying information for the first  
81 time. Such system shall be submitted to the commission by  
82 October 1, 2000, and approved by the commission by January  
83 1, 2001. The excursion gambling boat licensee shall use  
84 identifying information obtained from patrons who have  
85 elected to have marketing blocked under the provisions of  
86 this section only for the purposes of enforcing the  
87 requirements contained in sections 313.800 to 313.850. This  
88 section shall not prohibit the commission from accessing  
89 identifying information for the purposes of enforcing  
90 section 313.004 and sections 313.800 to 313.850;



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

94           (16) The commission shall base its decision to license  
95 excursion gambling boats on any of the following criteria:  
96 the docking location or the excursion cruise could cause  
97 danger to the boat's passengers, violate federal law or the  
98 law of another state, or cause disruption of interstate  
99 commerce or possible interference with railway or barge  
100 transportation. The commission shall consider economic  
101 feasibility or impact that would benefit land-based  
102 development and permanent job creation. The commission  
103 shall not discriminate among applicants for excursion  
104 gambling boats that are similarly situated with respect to  
105 the criteria set forth in this section;

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

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

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

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

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