

SECOND EXTRAORDINARY SESSION

# HOUSE BILL NO. 5

92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GRAHAM.

Read 1<sup>st</sup> time September 8, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2335L.011

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## AN ACT

To repeal sections 313.805, 313.820, and 313.822, RSMo, and to enact in lieu thereof three new sections relating to gaming.

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

Section A. Sections 313.805, 313.820, and 313.822, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 313.805, 313.820, and 313.822, to read  
3 as follows:

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

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

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

12 (3) To adopt standards under which all excursion gambling boat operations shall be held  
13 and standards for the facilities within which the gambling operations are to be held.  
14 Notwithstanding the provisions of chapter 311, RSMo, to the contrary, the commission may  
15 authorize the operation of gambling games on an excursion gambling boat which is also licensed

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

16 to sell or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering  
17 structure for gambling excursions [including providing] **and except as provided in subsection**  
18 **2 of this section shall provide** a maximum loss of five hundred dollars per individual player per  
19 gambling excursion;

20 (4) To enter the premises of excursion gambling boats, facilities, or other places of  
21 business of a licensee within this state to determine compliance with sections 313.800 to  
22 313.850;

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

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

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

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

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

41 (10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for  
42 the production of books, records, and other pertinent documents, and to administer oaths and  
43 affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce  
44 sections 313.800 to 313.850 or the commission rules;

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

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

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

52           (14) To require excursion gambling boat licensees to develop a system, approved by the  
53 commission, that allows patrons the option to prohibit the excursion gambling boat licensee from  
54 using identifying information for marketing purposes. The provisions of this subdivision shall  
55 apply only to patrons giving identifying information for the first time. Such system shall be  
56 submitted to the commission by October 1, 2000, and approved by the commission by January  
57 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from  
58 patrons who have elected to have marketing blocked under the provisions of this section only for  
59 the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This  
60 section shall not prohibit the commission from accessing identifying information for the  
61 purposes of enforcing section 313.004 and sections 313.800 to 313.850;

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

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

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

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

88 wagering;

89 (19) To take any other action as may be reasonable or appropriate to enforce sections  
90 313.800 to 313.850 and the commission rules.

91 **2. Any county may exempt itself from the provisions of subdivision (3) of subsection**  
92 **1 of this section relating to a maximum loss limit of five hundred dollars per individual**  
93 **player per gambling excursion by submission of the proposition to the voters of the county**  
94 **at a general election or primary election, and the proposition receiving a majority of the**  
95 **votes cast therein. The proposal to exempt the county from the provisions of subdivision**  
96 **(3) of subsection 1 of this section relating to a maximum loss limit of five hundred dollars**  
97 **per individual player per gambling excursion shall be submitted to the voters of the county**  
98 **upon a majority vote of the governing body of the county or when a petition requesting the**  
99 **submission of the proposal to the voters and signed by a number of qualified voters**  
100 **residing in the county equal to eight percent of the votes cast in the county in the next**  
101 **preceding gubernatorial election is filed with the governing body of the county. The ballot**  
102 **of submission shall include, but not be limited to, the following language:**

103 **Shall ..... County (name of county) be exempt from the gaming loss limit provisions**  
104 **relating to a maximum loss limit of five hundred dollars per individual player per**  
105 **gambling excursion?**

106 ☐ YES

☐ NO

107

108 **If a majority of votes cast on the proposal by the qualified voters voting thereon in the**  
109 **county are in favor of the proposal, then the provisions of subdivision (3) of subsection 1**  
110 **of this section relating to a maximum loss limit of five hundred dollars per individual**  
111 **player per gambling excursion shall no longer apply within that county. If a majority of**  
112 **the votes cast on the proposal are opposed to the proposal, then the provisions of**  
113 **subdivision (3) of subsection 1 of this section relating to a maximum loss limit of five**  
114 **hundred dollars per individual player per gambling excursion shall continue to apply and**  
115 **be enforced within that county. The exemption of any county from the provisions of**  
116 **subdivision (3) of subsection 1 of this section relating to a maximum loss limit of five**  
117 **hundred dollars per individual player per gambling excursion shall not become effective**  
118 **in that county until the results of the vote exempting the county have been filed with the**  
119 **secretary of state and with the revisor of statutes and have been certified as received by**  
120 **those officers. The revisor of statutes shall note which counties are exempt from the**  
121 **provisions of subdivision (3) of subsection 1 of this section relating to a maximum loss limit**  
122 **of five hundred dollars per individual player per gambling excursion in the Missouri**  
123 **revised statutes.**

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. **Beginning on the effective date of this section, excursion gambling boat licensees shall pay to the commission an additional admission fee of three dollars for each person embarking on an excursion gambling boat with a ticket of admission which shall be deposited in the state treasury to the credit of the gaming commission fund.** 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 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 shall not become public record and shall be used exclusively for commission 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] **twenty-two** 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

5 checks and drafts remitted for payment of these taxes and fees shall be made payable to the  
6 director of revenue. If the commission is not satisfied with the return or payment made by any  
7 licensee, it is hereby authorized and empowered to make an assessment of the amount due based  
8 upon any information within its possession or that shall come into its possession. Any licensee  
9 against whom an assessment is made by the commission may petition for a reassessment. The  
10 request for reassessment shall be made within twenty days from the date the assessment was  
11 mailed or delivered to the licensee, whichever is earlier. Whereupon the commission shall give  
12 notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The  
13 assessment shall become final if a request for reassessment is not received by the commission  
14 within the twenty days. Except as provided in this section, on and after April 29, 1993, all  
15 functions incident to the administration, collection, enforcement, and operation of the tax  
16 imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees  
17 imposed by this section.

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

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