

SECOND REGULAR SESSION

HOUSE BILL NO. 1863

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES VILLA (Sponsor), AVERY, SCHNEIDER,
DAUS AND PARKER (Co-sponsors).

Read 1st time February 23, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5235L.01I

AN ACT

To repeal sections 313.805, 313.812, and 313.822, RSMo, and to enact in lieu thereof three new sections relating to gaming.

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

Section A. Sections 313.805, 313.812, and 313.822, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 313.805, 313.812, and 313.822, to read
3 as follows:

313.805. 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.

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

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
16 to sell or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering
17 structure for gambling excursions [including providing a maximum loss of five hundred dollars
18 per individual player per gambling excursion];

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

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

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

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

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

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

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

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

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

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

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

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

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

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

79 (18) To require any applicant for a license or renewal of a license to operate an excursion
80 gambling boat to provide an affirmative action plan which has as its goal the use of best efforts
81 to achieve maximum employment of African-Americans and other minorities and maximum
82 participation in the procurement of contractual purchases of goods and services. This provision
83 shall be administered in accordance with all federal and state employment laws, including Title

84 VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license
85 renewal, the licensee will report on the effectiveness of the plan. The commission shall include
86 the licensee's reported information in its annual report to the joint committee on gaming and
87 wagering;

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

313.812. 1. **Except as provided in subsection 15 of this section**, the commission may
2 issue licenses pursuant to subsection 1 of section 313.807 when it is satisfied that the applicant
3 has complied with all rules and regulations, including an update of all information provided to
4 the commission in the licensee's initial application. The commission shall decide the number,
5 location and type of excursion gambling boat in a city or county under subsection 10 of this
6 section. The license shall set forth the name of the licensee, the type of license granted, the place
7 where the excursion gambling boat will operate and dock, including the docking of an excursion
8 gambling boat which is continuously docked, and other information the commission deems
9 appropriate. The commission shall have the ultimate responsibility of deciding the number,
10 location, and type of excursion gambling boats licensed in a city or county; however, any city
11 or county which has complied with the provisions of subsection 10 of this section shall submit
12 to the commission a plan outlining the following:

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

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

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

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

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

21 (6) Any other information the commission may determine is necessary.

22

23 The commission shall provide for due dates for receiving such plan from the city or county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

62 8. A license shall not be granted if the applicant has not established his good repute and
63 moral character or if the applicant has pled guilty to, or has been convicted of, a felony. No
64 licensee shall employ or contract with any person who has pled guilty to, or has been convicted
65 of, a felony to perform any duties directly connected with the licensee's privileges under a license

66 granted pursuant to this section, except that employees performing nongaming related
67 occupations as determined by the commission shall be exempt from the requirements of this
68 subsection.

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

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

87 Shall the City (County) of allow the licensing of excursion gambling boats
88 or floating facilities as now or hereafter provided by Missouri gaming law in the city (county)?
89 YES NO

90
91 If a majority of the votes cast on the question by the qualified voters voting thereon are in favor
92 of the question, then the commission may license excursion gambling boats in that city or county
93 and such boats may operate on the Mississippi River and the Missouri River. If a majority of the
94 votes cast on the question by the qualified voters voting thereon are opposed to the question, then
95 the commission shall not license such excursion gambling boats in such city or county unless and
96 until the question is again submitted to and approved by a majority of the qualified voters of the
97 city or county at a later election.

98
99 Excursion gambling boats may only dock in a city or unincorporated area of a county which
100 approves licensing of such excursion gambling boats pursuant to this subsection, but gambling
101 operations may be conducted at any point on the Mississippi River or the Missouri River during

102 an excursion. Those cities and counties which have approved by election pursuant to this
103 subsection, except those cities or counties which have subsequently rejected by election, the
104 licensing of any type of excursion gambling boats in the city or county prior to April 6, 1994, are
105 exempt from any local election requirement of this section as such previous election shall have
106 the same effect as if held after May 20, 1994.

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

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

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

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

127 (1) Failing to comply with or make provision for compliance with sections 313.800 to
128 313.850, the rules and regulations of the commission or any federal, state or local law or
129 regulation;

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

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

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

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

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

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

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

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

150 **15. The commission shall be authorized to issue licenses to operate excursion**
151 **gambling boats until there are a total of thirteen excursion gambling boats in the state,**
152 **except that if the commission has not issued licenses for a total of thirteen gambling boats**
153 **in the state by January 1, 2013, the number of excursion gambling boats shall be limited**
154 **to the number of excursion gambling boats with valid licenses on January 1, 2013. In**
155 **addition, after August 28, 2006, any excursion gambling boat license issued by the**
156 **commission that does not replace an existing gambling boat license that has expired, been**
157 **forfeited, revoked, or surrendered, or otherwise become invalid, must be located in any**
158 **county with a charter form of government and with more than six hundred thousand but**
159 **fewer than seven hundred thousand inhabitants, any county of the first classification with**
160 **more than one hundred eighty-four thousand but fewer than one hundred eighty-eight**
161 **thousand inhabitants, any county of the first classification with more than seventy-three**
162 **thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants,**
163 **any county with a charter form of government and with more than one million inhabitants,**
164 **any county with a charter form of government and with more than two hundred fifty**
165 **thousand but fewer than three hundred fifty thousand inhabitants, any county of the first**
166 **classification with more than one hundred ninety-eight thousand but fewer than one**
167 **hundred ninety-nine thousand two hundred inhabitants, or any city not within a county,**
168 **and such excursion gambling boat license must be initially issued before January 1, 2013.**
169 **If one or more excursion gambling boat licenses currently existing or issued under this**
170 **subsection expires, is forfeited, revoked, surrendered, or otherwise becomes invalid, then**
171 **the commission may issue a new excursion gambling boat license to replace the excursion**
172 **gambling boat license that expired, was forfeited, revoked, surrendered, or otherwise**

173 **became invalid, but such excursion gambling boat license shall only be issued for the same**
174 **excursion gambling boat or another excursion gambling boat which will be located in the**
175 **same city or county as the excursion gambling boat whose license expired, was forfeited,**
176 **revoked, surrendered, or otherwise became invalid.**

313.822. A tax is imposed on the adjusted gross receipts received from gambling games
2 authorized pursuant to sections 313.800 to 313.850 at the rate of [twenty] **twenty-one** percent.
3 The taxes imposed by this section shall be returned to the commission in accordance with the
4 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.

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