

SECOND REGULAR SESSION

HOUSE BILL NO. 2043

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1st time February 7, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4855L.01I

AN ACT

To repeal sections 160.534, 313.805, and 313.812, RSMo, and to enact in lieu thereof five new sections relating to the use of licensed gaming revenues, with a penalty provision.

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

Section A. Sections 160.534, 313.805, and 313.812, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 160.534, 313.805, 313.812, 313.823, and 313.964, to read as follows:

160.534. **1.** For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

2. For fiscal year 2009, all funds transferred from the gaming proceeds for education fund established in section 313.822, RSMo, in excess of the sum of the amount transferred to the school district bond fund for the preceding fiscal year plus the amount transferred to the classroom trust fund for the preceding fiscal year multiplied by one and five hundredths, shall be transferred to the "Teachers' Compensation Fund", which is hereby created in the state treasury, which shall consist of money collected under section 313.822, RSMo, and this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for augmenting the

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.

15 salaries of teachers in the Missouri public school system. Moneys in the fund shall be
16 distributed to each school district in this state on the basis of the number of teachers in
17 each district. The moneys distributed under this section shall be spent at the discretion of
18 the local school district but shall be used only for augmenting teacher salaries.

19 **3. The teachers' compensation fund shall consist of all moneys transferred to it**
20 **under this section and all moneys otherwise appropriated or donated to it.**

21 **4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any**
22 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**
23 **the general revenue fund.**

24 **5. The state treasurer shall invest moneys in the fund in the same manner as other**
25 **funds are invested. Any interest and moneys earned on such investments shall be credited**
26 **to the fund.**

27 **6. For fiscal year 2010 and for each fiscal year thereafter, the amount transferred**
28 **from the gaming proceeds for education fund to the classroom trust fund shall be the**
29 **amount transferred to the fund during the preceding fiscal year, adjusted by one half of**
30 **the percent increase or decrease of the gaming proceeds for education fund from the**
31 **preceding fiscal year; and the amount transferred from the gaming proceeds for education**
32 **fund to the teachers' compensation fund shall be the amount transferred to the fund**
33 **during the preceding fiscal year, adjusted by one-half of the percent increase or decrease**
34 **of the gaming proceeds for education fund from the preceding fiscal year.**

35 **7. The department of elementary and secondary education shall promulgate rules**
36 **to establish a procedure for implementing this section. Any rule or portion of a rule, as**
37 **that term is defined in section 536.010, RSMo, that is created under the authority delegated**
38 **in this section shall become effective only if it complies with and is subject to all of the**
39 **provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section**
40 **and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general**
41 **assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove**
42 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
43 **authority and any rule proposed or adopted after August 28, 2008, shall be invalid and**
44 **void.**

45 **8. The provisions of section 23.253, RSMo, shall not apply to this section.**

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.
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] , **provided that the commission shall not**
19 **establish any maximum loss limit;**

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.

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 a maximum of thirteen licenses to**
151 **operate excursion gambling boats in the state. If one or more of the thirteen licenses issued**
152 **under this subsection expires, is not renewed, is forfeited, or revoked, then the commission**
153 **may issue a new license to replace the license that expired, was not renewed, was forfeited,**
154 **or revoked, but such license shall only be issued for the same excursion gambling boat or**
155 **another excursion gambling boat which will be located in the same or adjoining city,**
156 **county, or city not within a county as the excursion gambling boat whose license expired,**
157 **was not renewed, was forfeited, or revoked.**

313.823. In addition to all other fees and taxes required or paid, an excursion
2 **gambling boat licensee shall pay an additional education allowance on all adjusted gross**
3 **receipts in excess of forty million dollars received from gambling games authorized under**
4 **sections 313.800 to 313.850 at the rate of one percent. The education allowance shall be**
5 **paid to the commission under rules and regulations promulgated by the commission. The**
6 **proceeds obtained from the education allowance shall be transferred to the credit of the**
7 **teachers' compensation fund established in section 160.534, RSMo. Any rule or portion**
8 **of a rule, as that term is defined in section 536.010, RSMo, that is created under the**

9 authority delegated in this section shall become effective only if it complies with and is
10 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
11 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
12 vested with the general assembly under chapter 536, RSMo, to review, to delay the effective
13 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
14 grant of rulemaking authority and any rule proposed or adopted after August 28, 2008,
15 shall be invalid and void.

313.964. Without limiting the obligations of the class A licensee under subsection
2 4 of section 313.817, no documentation or other form of identification, including biometric
3 identification, shall be required to enter the area where gambling is being conducted on an
4 excursion gambling boat unless requested of a patron by a class A licensee.

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