SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1388

99TH GENERAL ASSEMBLY

4196S.08T 2018

AN ACT

To repeal sections 67.3000, 67.3005, 313.940, 317.006, 317.011, 317.013, 317.014, and 317.019, RSMo, and to enact in lieu thereof nine new sections relating to sports contests.

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

Section A. Sections 67.3000, 67.3005, 313.940, 317.006, 317.011, 317.013, 317.014,

- 2 and 317.019, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as
- 3 sections 67.3000, 67.3005, 313.940, 317.006, 317.011, 317.013, 317.014, 317.017, and 317.019,
- 4 to read as follows:
 - 67.3000. 1. As used in this section and section 67.3005, the following words shall mean:
- 2 (1) "Active member", an organization located in the state of Missouri which solicits and
- 3 services sports events, sports organizations, and other types of sports-related activities in that
- 4 community;
- 5 (2) "Applicant" or "applicants", one or more certified sponsors, endorsing counties,
- 6 endorsing municipalities, or a local organizing committee, acting individually or collectively;
- 7 (3) "Certified sponsor" or "certified sponsors", a nonprofit organization which is an
- 8 active member of the National Association of Sports Commissions;
- 9 (4) "Department", the Missouri department of economic development;
- 10 (5) "Director", the director of revenue;
- 11 (6) "Eligible costs" shall include:

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.

- 12 (a) Costs necessary for conducting the sporting event;
 - (b) Costs relating to the preparations necessary for the conduct of the sporting event; and
- 14 (c) An applicant's pledged obligations to the site selection organization as evidenced by 15 the support contract for the sporting event **including**, **but not limited to**, **bid fees and financial**

16 guarantees.

"Eligible costs" shall not include any cost associated with the rehabilitation or construction of any facilities used to host the sporting event or direct payments to a for-profit site selection organization, but may include costs associated with the retrofitting of a facility necessary to accommodate the sporting event;

- (7) "Eligible donation", donations received, by a certified sponsor or local organizing committee, from a taxpayer that may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department. Such donations shall be used solely to provide funding to attract sporting events to this state;
- (8) "Endorsing municipality" or "endorsing municipalities", any city, town, incorporated village, or county that contains a site selected by a site selection organization for one or more sporting events;
- (9) "Joinder agreement", an agreement entered into by one or more applicants, acting individually or collectively, and a site selection organization setting out representations and assurances by each applicant in connection with the selection of a site in this state for the location of a sporting event;
- (10) "Joinder undertaking", an agreement entered into by one or more applicants, acting individually or collectively, and a site selection organization that each applicant will execute a joinder agreement in the event that the site selection organization selects a site in this state for a sporting event;
- (11) "Local organizing committee", a nonprofit corporation or its successor in interest that:
- (a) Has been authorized by one or more certified sponsors, endorsing municipalities, or endorsing counties, acting individually or collectively, to pursue an application and bid on its or the applicant's behalf to a site selection organization for selection as the host of one or more sporting events; or
- (b) With the authorization of one or more certified sponsors, endorsing municipalities, or endorsing counties, acting individually or collectively, executes an agreement with a site selection organization regarding a bid to host one or more sporting events;
- 46 (12) "Site selection organization", the National Collegiate Athletic Association (NCAA); 47 an NCAA member conference, university, or institution; the National Association of

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- 48 Intercollegiate Athletics (NAIA); the United States Olympic Committee (USOC); a national
- 49 governing body (NGB) or international federation of a sport recognized by the USOC; the United
- 50 States Golf Association (USGA); the United States Tennis Association (USTA); the Amateur
- 51 [Softball Association of America (ASA)] Athletic Union (AAU); the National Christian
- 52 College Athletic Association (NCCAA); the National Junior College Athletic Association
- 53 (NJCAA); the United States Sports Specialty Association (USSSA); any rights holder
- 54 member of the National Association of Sports Commissions (NASC); other major regional,
- 55 national, and international sports associations, and amateur organizations that promote, organize,
- or administer sporting games or competitions; or other major regional, national, and international
- 57 organizations that promote or organize sporting events;
 - (13) "Sporting event" or "sporting events", an amateur, **collegiate**, or Olympic sporting event that is competitively bid or is awarded by a site selection organization;
 - (14) "Support contract" or "support contracts", an event award notification, joinder undertaking, joinder agreement, or contract executed by an applicant and a site selection organization;
- 63 (15) "Tax credit" or "tax credits", a credit or credits issued by the department against the 64 tax otherwise due under chapter 143 or 148, excluding withholding tax imposed under sections 65 143.191 to 143.265;
- 66 (16) "Taxpayer", any of the following individuals or entities who make an eligible donation:
- 68 (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation 69 doing business in the state of Missouri and subject to the state income tax imposed under chapter 70 143:
- 71 (b) A corporation subject to the annual corporation franchise tax imposed under chapter 72 147;
- (c) An insurance company paying an annual tax on its gross premium receipts in this state;
- 75 (d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148;
 - (e) An individual subject to the state income tax imposed under chapter 143;
- 78 (f) Any charitable organization which is exempt from federal income tax and whose 79 Missouri unrelated business taxable income, if any, would be subject to the state income tax 80 imposed under chapter 143.
- 2. An applicant may submit a copy of a support contract for a sporting event to the department. Within sixty days of receipt of the sporting event support contract, the department may review the applicant's support contract and certify such support contract if it complies with

the requirements of this section. Upon certification of the support contract by the department, the applicant may be authorized to receive the tax credit under subsection 4 of this section.

- 3. No more than [thirty] ninety days following the conclusion of the sporting event, the applicant shall submit eligible costs and documentation of the costs evidenced by receipts, paid invoices, event settlements, or other documentation in a manner prescribed by the department. Eligible costs may be paid by the applicant or an entity cohosting the event with the applicant.
- 4. (1) No later than seven days following the conclusion of the sporting event, the department, in consultation with the director, [may] shall determine the total number of tickets sold at face value for such event or, if such event was participant-based and did not sell admission tickets, the total number of paid participant registrations.
- (2) No later than sixty days following the receipt of eligible costs and documentation of such costs from the applicant as required in subsection 3 of this section, the department [may] shall, except for the limitations under subsection 5 of this section, issue a refundable tax credit to the applicant for the [lesser] least of:
 - (a) One hundred percent of eligible costs incurred by the applicant [or];
 - (b) An amount equal to five dollars for every admission ticket sold to such event; or
- (c) An amount equal to ten dollars for every paid participant registration if such event was participant-based and did not sell admission tickets.

The calculations under paragraphs (b) and (c) of this subdivision shall use the actual number of tickets sold or registrations paid, not an estimated amount.

- (3) Tax credits authorized by this section may be claimed against taxes imposed by chapters 143 and 148 and shall be claimed within one year of the close of the [taxable] tax year for which the credits were issued. Tax credits authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferree, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department.
- 5. In no event shall the amount of tax credits issued by the department under subsection 4 of this section exceed three million dollars in any fiscal year. For all events located within the following counties, the total amount of tax credits issued shall not exceed two million seven hundred thousand dollars in any fiscal year:
- (1) A county with a charter form of government and with more than six hundred thousand inhabitants; or
 - (2) A city not within a county.

- 6. An applicant shall provide any information necessary as determined by the department for the department and the director to fulfill the duties required by this section. At any time upon the request of the state of Missouri, a certified sponsor shall subject itself to an audit conducted by the state.
 - 7. This section shall not be construed as creating or requiring a state guarantee of obligations imposed on an endorsing municipality under a support contract or any other agreement relating to hosting one or more sporting events in this state.
 - 8. The department shall only certify an applicant's support contract for a sporting event in which the site selection organization has yet to select a location for the sporting event as of December 1, 2012. No support contract shall be certified unless the site selection organization has chosen to use a location in this state from competitive bids, at least one of which was a bid for a location outside of this state, except that competitive bids shall not be required for any previously-awarded event whose site selection organization extends its contractual agreement with the event's certified sponsor or for any post-season collegiate football game or other neutral-site game with at least one out-of-state team. Support contracts shall not be certified by the department after August 28, [2019] 2025, provided that the support contracts may be certified on or prior to August 28, [2019] 2025, for sporting events that will be held after such date.
 - 9. The department may promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.
 - 67.3005. 1. For all [taxable] tax years beginning on or after January 1, 2013, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's two subsequent [taxable] tax years.
 - 2. To claim the credit authorized in this section, a certified sponsor or local organizing committee shall submit to the department an application for the tax credit authorized by this

section on behalf of taxpayers. The department shall verify that the applicant has submitted the following items accurately and completely:

- (1) A valid application in the form and format required by the department;
- (2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received; and
- (3) Payment from the certified sponsor or local organizing committee equal to the value of the tax credit for which application is made.

If the certified sponsor or local organizing committee applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

- 3. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit. In no event shall the amount of tax credits issued by the department under this section exceed ten million dollars in any fiscal year.
- 4. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.
 - 5. Under section 23.253 of the Missouri sunset act:
- (1) The provisions of the new program authorized under section 67.3000 and under this section shall automatically sunset six years after August 28, [2013] 2019, unless reauthorized by an act of the general assembly; and
- (2) If such program is reauthorized, the program authorized under section 67.3000 and under this section shall automatically sunset twelve years after the effective date of the reauthorization of these sections; and
- (3) Section 67.3000 and this section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under these sections is sunset.

- shall contract annually with a certified public accountant to perform a financial audit of the licensed operator [and the authorized internet website]. Except as provided in subsection 2 of this section, a licensed operator shall also contract with a qualified third party to perform an examination to ensure compliance with sections 313.900 to 313.955 and any rule governing sections 313.900 to 313.955. The licensed operator shall [pay for the audit and] submit[, by March first] the result of each audit and examination to the commission by November first of [each] the subsequent calendar year[, the results of the audit to the commission].
 - 2. A licensed operator with net revenues of two hundred fifty thousand dollars or less in a calendar year shall not be required to comply with the provisions of subsection 1 of this section. The commission may perform an audit on such licensed operator at the commission's expense. If such audit uncovers evidence of any violation of sections 313.900 to 313.955, the licensed operator shall remit to the commission the reasonable cost of such audit.
 - 317.006. 1. The division shall have general charge and supervision of all professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, and amateur mixed martial arts contests held in the state of Missouri, and it shall have the power, and it shall be its duty:
 - (1) To make and publish rules governing in every particular professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, and amateur mixed martial arts contests:
 - (2) To make and publish rules governing the approval of amateur sanctioning bodies;
 - (3) To accept applications for and issue licenses to contestants in professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, and amateur mixed martial arts contests held in the state of Missouri, and referees, judges, matchmakers, [managers,] promoters, seconds, [announcers,] timekeepers, and physicians involved in professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, and amateur mixed martial arts contests held in the state of Missouri, as authorized herein. Such licenses shall be issued in accordance with rules duly adopted by the division;
 - (4) To charge fees to be determined by the director and established by rule for every license issued and to assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company, or association holding a promoter's license

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and permit under sections 317.001 to 317.021, derived from admission charges connected with

23 or as an incident to the holding of any professional boxing, sparring, professional wrestling,

- 24 professional kickboxing [or], amateur kickboxing, professional full-contact karate,
- 25 professional mixed martial arts, or amateur mixed martial arts contest in the state of
- 26 Missouri. Such funds shall be paid to the division of professional registration which shall pay
- 27 said funds into the Missouri state treasury to be set apart into a fund to be known as the "Athletic
- 28 Fund" which is hereby established[;
 - (5) To assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company or association holding a promoter's license under sections 317.001 to 317.021 derived from the sale, lease or other exploitation in this state of broadcasting, television, pay-per-view, closed-circuit telecast, and motion picture rights for any professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest. Such funds shall be paid to the division which shall pay said funds into the Missouri state treasury to be set apart into a fund to be known as the "Athletic Fund";
 - (6) Each cable television system operator whose pay-per-view or closed-circuit facilities are utilized to telecast a bout or contest shall, within thirty calendar days following the date of the telecast, file a report with the office stating the number of orders sold and the price per order].
- 2. All fees established pursuant to sections 317.001 to 317.021 shall be determined by the director by rule in such amount as to produce sufficient revenue to fund the necessary expenses and operating costs incurred in the administration of the provisions of sections 317.001 to 317.021. All expenses shall be paid as otherwise provided by law.
 - 317.011. 1. The division shall have the power, and it shall be its duty, to accept application for and issue permits to hold professional boxing, sparring, professional wrestling, professional kickboxing [or], amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contests in the state of Missouri, and to charge a fee for the issuance of same in an amount established by rule; such funds to be paid to the division which shall pay such funds into the Missouri state treasury to be set apart into the athletic fund.
- 2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year or, if the division requires by rule renewal **of the permits** less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

- 3. The division shall not grant any permit to hold professional boxing, sparring, professional wrestling, professional kickboxing [or], amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contests in the state of Missouri except:
 - (1) Where such professional boxing, sparring, professional wrestling, professional kickboxing [er], amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contest is to be held under the auspices of a promoter duly licensed by the division; and
 - (2) Where a fee has been paid for such permit, in an amount established by rule.
 - 4. In such contests a decision shall be rendered by three judges licensed by the division.
 - 5. Specifically exempted from the provisions of this chapter are contests or exhibitions for amateur boxing[, amateur kickboxing,] and amateur wrestling [and amateur full-contact karate]. However, all amateur boxing [, amateur kickboxing,] and amateur wrestling [and amateur full-contact karate] must be sanctioned by a nationally recognized amateur sanctioning body approved by the office.
- 317.013. 1. In order to protect the health and welfare of the contestants, there shall be a mandatory medical suspension of any contestant, not to exceed one hundred eighty days, who loses consciousness or who has been injured as a result of blows received to the head or body during a professional boxing, professional wrestling, professional kickboxing, [of] amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contest. The determination of consciousness is to be made only by a physician licensed by the board of healing arts and the division. Medical suspensions issued in accordance with this section shall not be reviewable by any tribunal.
 - 2. No license shall be issued to any person who has been injured in such a manner that they may not continue to participate in boxing, wrestling, **professional** kickboxing, [or] **amateur kickboxing**, full-contact karate, **professional mixed martial arts**, or **amateur mixed martial arts** contests in the future. Such a person shall be deemed medically retired. No person with a status of medically retired shall compete in any events governed by this chapter. Medical retirements issued in accordance with this section shall not be reviewable by any tribunal.
 - 317.014. 1. Upon proper application by the director, or the director of the office, a court of competent jurisdiction may grant an injunction, restraining order or any other order as may be appropriate to enjoin a person, partnership, organization, corporation, limited liability company or association from:
 - (1) Promoting or offering to promote any professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate,

7 professional mixed martial arts, or amateur mixed martial arts contests [in Missouri] that
8 are not approved by the Missouri office of athletics;

- (2) Advertising or offering to advertise any professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contests [in Missouri] that are not approved by the Missouri office of athletics;
- (3) Conducting or offering to conduct any professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contests [in Missouri] that are not approved by the Missouri office of athletics; or
- (4) Competing or offering to compete in any professional boxing, sparring, professional wrestling, professional kickboxing [and], amateur kickboxing, professional full-contact karate, professional mixed martial arts, or amateur mixed martial arts contests [in Missouri] that are not approved by the Missouri office of athletics.
- 2. Any such actions shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.
- 3. Any action brought under this section shall be in addition to, and not in lieu of, any penalty provided by law and may be brought concurrently with other actions to enforce this chapter.
- 317.017. 1. In any professional or amateur event the division regulates, other than amateur kickboxing, no person shall be allowed to participate if such person is not eighteen years of age or older on or before the day the individual is scheduled to participate in the event.
- 2. Before the office issues a promoter's license, the promoter shall provide the office a surety bond in the amount of twenty-five thousand dollars or an irrevocable letter of credit in the amount of at least twenty-five thousand dollars from a lending institution approved to do business in the United States to guarantee payment of all state athletic taxes and fees to the state. The surety bond or irrevocable letter of credit shall cover all license fees and taxes due to the office as well as all expenses of the contestants and officials in the event of default by the promoter. The irrevocable letter of credit shall be released only upon written approval by the office. An additional bond or irrevocable letter of credit may be required in the amount specified by the office if it may be reasonably expected that the twenty-five thousand dollar bond or irrevocable letter of credit will not provide sufficient protection to the state. It shall be the duty of each promoter to maintain all required bonds on a current status.

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- 17 3. There shall be a prohibition of all elbow strikes to the head of an opponent during an amateur mixed martial arts bout. 18
- 19 4. For the first five sanctioned amateur bouts, there shall be a prohibition of knee 20 strikes to the head of an opponent during an amateur mixed martial arts contest. 21 However, after the fifth sanctioned bout for both contestants, both contestants may 22 mutually agree to allow knee strikes during a bout.
- 317.019. 1. The promoter of a professional boxing, professional kickboxing, [and] amateur kickboxing, professional full-contact karate, professional mixed martial arts, and 3 amateur mixed martial arts contest shall sign written bout contracts with each professional or **amateur** contestant. Original bout contracts shall be filed with the division prior to the event as required by the rules of the office. The bout contract shall be on a form supplied by the division and contain at least the following:
 - (1) The weight required of the contestant at weigh-in;
 - (2) The amount of the purse to be paid for the contest, except amateur kickboxing and amateur mixed martial arts contests;
 - (3) The date and location of the contest;
- 11 (4) The glove size allotted for each contestant;
- 12 (5) Any other payment or consideration provided to the contestant, except amateur 13 kickboxing and amateur mixed martial arts contests;
 - (6) List of all fees, charges, and expenses including training expenses that will be assessed to the contestant or deducted from the contestant's purse, except amateur kickboxing and amateur mixed martial arts contests:
 - (7) Any advances paid to the contestant before the bout, except amateur kickboxing and amateur mixed martial arts contests:
 - (8) The amount of any compensation or consideration that a promoter has contracted to receive in connection with the bout or contest, except amateur kickboxing and amateur mixed martial arts contests;
 - (9) The signature of the promoter and contestant;
 - (10) The date signed by both the promoter and the contestant; and
 - (11) Any **additional** information required by the office.
- 2. If the bout contract between a contestant and promoter is changed, the promoter shall 26 provide the division with the amended contract containing all contract changes at least two hours 27 prior to the event's scheduled start time. The amended contract shall comply with all requirements for original bout contracts and shall contain the signature of the promoter and 29 contestant.

- 30 3. A promoter of an event shall not be a manager for a contestant who is contracted for ten rounds or more at the event.
- 4. The promoter of an event shall provide payments for the event official's fees to the office prior to the start of the event. The form of payment shall be at the discretion of the office provided that payments remitted by check or money order shall be made payable directly to the applicable official.

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