

By: Representatives Watson,  
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To: Select Committee on  
Civil Justice Reform

HOUSE BILL NO. 11

1 AN ACT TO AMEND SECTIONS 11-11-3, 11-11-5, 11-11-7, 11-11-11  
2 AND 11-11-13, MISSISSIPPI CODE OF 1972, TO REVISE VENUE IN CIVIL  
3 ACTIONS; TO AMEND SECTION 11-1-62, MISSISSIPPI CODE OF 1972, TO  
4 PROVIDE PROTECTION FOR PHARMACISTS AND LICENSED PHARMACIES IN DRUG  
5 SUITS; TO AMEND SECTION 11-1-63, MISSISSIPPI CODE OF 1972, TO  
6 CLARIFY CERTAIN PARTIES IN PRODUCTS LIABILITY ACTIONS; TO PROVIDE  
7 IMMUNITY FOR PROPERTY OWNERS IN PREMISES LIABILITY ACTIONS; TO  
8 PROVIDE AN ASSESSMENT FOR FILING FRIVOLOUS CLAIMS; TO PROHIBIT  
9 ATTORNEY ADVERTISING BY ATTORNEYS NOT ADMITTED TO PRACTICE IN  
10 MISSISSIPPI; TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO  
11 REVISE JOINT AND SEVERAL LIABILITY IN CERTAIN CIVIL ACTIONS; TO  
12 PROVIDE THAT CERTAIN INFORMATION REGARDING A DEFECTIVE PRODUCT,  
13 FINANCIAL FRAUD, UNFAIR INSURANCE CLAIMS PRACTICES OR  
14 ENVIRONMENTAL HAZARD SHALL BE PRESUMED TO BE PUBLIC INFORMATION;  
15 TO ALLOW SUCH INFORMATION TO BE KEPT CONFIDENTIAL BY COURT ORDER;  
16 TO DEFINE CERTAIN TERMS; TO AMEND SECTIONS 75-26-5, 75-26-11 AND  
17 75-26-15, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS  
18 OF THIS ACT; TO LIMIT THE LIABILITY OF THE SPONSOR OR ADVERTISER  
19 OF AN EVENT IN THE CASE OF A CIVIL ACTION ARISING OUT OF  
20 ACTIVITIES OCCURRING ON THE PREMISES OF THE LOCATION WHERE THE  
21 EVENT IS HELD OR CONDUCTED, PROVIDED THAT THE SPONSOR OR  
22 ADVERTISER DOES NOT EXERCISE CONTROL OVER ANY ASPECT OF THE EVENT  
23 OTHER THAN ACTING AS SPONSOR OR ADVERTISER; TO DEFINE THE TERMS  
24 "SPONSOR" AND "EVENT"; TO PROVIDE THAT THIS LIMITATION OF  
25 LIABILITY SHALL NOT EXTEND TO WILLFUL ACTS OR GROSS NEGLIGENCE ON  
26 THE PART OF A SPONSOR; TO AMEND SECTION 67-3-73, MISSISSIPPI CODE  
27 OF 1972, TO PROVIDE A LIMITATION OF LIABILITY FOR A HOLDER OF A  
28 PERMIT AUTHORIZING THE WHOLESALE SALE OF BEER OR LIGHT WINE WHO  
29 LAWFULLY SELLS BEER OR LIGHT WINE TO A HOLDER OF A PERMIT FOR THE  
30 RETAIL SALE OF BEER OR LIGHT WINE; TO CREATE NEW SECTION 11-7-30,  
31 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CIVIL ACTIONS IN CIRCUIT  
32 COURT SHALL NOT BE ASSIGNED TO A JUDGE UNTIL AT LEAST ONE  
33 DEFENDANT HAS FILED A RESPONSIVE PLEADING; AND FOR RELATED  
34 PURPOSES.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

36 **SECTION 1.** Section 11-11-3, Mississippi Code of 1972, as  
37 amended by House Bill No. 2, Third Extraordinary Session 2002, is  
38 amended as follows:

39 11-11-3. (1) Civil actions of which the circuit court has  
40 original jurisdiction shall be commenced in the county in which  
41 the defendant resides or in the county where the cause of action  
42 may occur or accrue and, if the defendant is a domestic  
43 corporation, in the county in which said corporation is domiciled



44 or in the county where the cause of action may occur or accrue,  
45 except where otherwise provided, and except actions of trespass on  
46 land, ejectment and actions for the statutory penalty for cutting  
47 and boxing trees and firing woods and actions for the actual value  
48 of trees cut which shall be brought in the county where the land  
49 or some part thereof is situated.

50 (2) Any action against a licensed physician, osteopath,  
51 dentist, nurse, nurse practitioner, physician assistant,  
52 psychologist, pharmacist, podiatrist, optometrist, chiropractor,  
53 institution for the aged or infirm, hospital or licensed pharmacy,  
54 including any legal entity which may be liable for their acts or  
55 omissions, for malpractice, negligence, error, omission, mistake,  
56 breach of standard of care or the unauthorized rendering of  
57 professional services shall be brought in the county in which the  
58 alleged act or omission occurred.

59 (3) Any cause of action arising from another state which has  
60 no legal nexus to the State of Mississippi may not be brought in a  
61 state court.

62 (4) If a civil action is brought in an improper county, such  
63 action may be transferred to the proper county pursuant to Section  
64 11-11-17.

65 **SECTION 2.** Section 11-11-5, Mississippi Code of 1972, is  
66 amended as follows:

67 11-11-5. Actions against any railroad, express, steamboat,  
68 power, superpower, telegraph or telephone corporation, or against  
69 individuals owning, managing, operating or controlling a railroad,  
70 express line or route, steamboat, power, superpower, telephone or  
71 telegraph line, or against any corporation or individuals owning,  
72 managing, operating or controlling a motor transportation line for  
73 the conveyance of passengers, freight or express, for hire, over  
74 the highways in the State of Mississippi, may be brought in the  
75 county where the cause of action accrued or in the county where



76 the defendant has its principal place of business \* \* \* at the  
77 time that the cause of action accrued.

78 **SECTION 3.** Section 11-11-7, Mississippi Code of 1972, is  
79 amended as follows:

80 11-11-7. Actions against insurance companies, groups of  
81 insurance companies or an insurance association may be brought in  
82 any county in which a loss may occur, or, if on a life policy, in  
83 the county in which the beneficiary resides, and process may be  
84 sent to any county, to be served as directed by law. Such actions  
85 may also be brought in the county where the principal place of  
86 business of such corporation or company may be. In case of a  
87 foreign corporation or company, such actions may be brought in the  
88 county where service of process may be had on an agent of such  
89 corporation or company or service of process in any suit or  
90 action, or any other legal process, may be served upon the  
91 Insurance Commissioner of the State of Mississippi, and such  
92 notice will confer jurisdiction on any court in any county in the  
93 state where the suit is filed, provided the suit is brought in the  
94 county where the loss occurred \* \* \*.

95 **SECTION 4.** Section 11-11-11, Mississippi Code of 1972, is  
96 amended as follows:

97 11-11-11. Any civil action for the recovery of damages  
98 brought against a nonresident or the representative of the  
99 nonresident in the State of Mississippi may be commenced in the  
100 county in which the action accrued \* \* \*, except as otherwise  
101 provided by law.

102 **SECTION 5.** Section 11-11-13, Mississippi Code of 1972, is  
103 amended as follows:

104 11-11-13. The venue of an action for damages brought against  
105 a nonresident arising from his operation, either in person or by  
106 agent or employee, of a motor vehicle upon any public street,  
107 road, or highway of this state, or elsewhere in this state, shall  
108 be \* \* \* in the county where the cause of action accrued \* \* \*.



109           **SECTION 6.** Section 11-1-62, Mississippi Code of 1972, as  
110 codified in House Bill No. 2, Third Extraordinary Session 2002, is  
111 amended as follows:

112           11-1-62. In any civil action alleging damages caused by a  
113 prescription drug that has been approved by the federal Food and  
114 Drug Administration, a physician, optometrist, pharmacist,  
115 licensed pharmacy, nurse practitioner or physician assistant may  
116 not be sued unless the plaintiff pleads specific facts which, if  
117 proven, amount to negligence on the part of the medical provider.  
118 It is the intent of this section to immunize innocent medical  
119 providers listed in this section who are not actively negligent  
120 from forum-driven lawsuits.

121           **SECTION 7.** Section 11-1-63, Mississippi Code of 1972, is  
122 amended as follows:

123           11-1-63. Notwithstanding the provisions of Section 11-1-62,  
124 in any action for damages caused by a product except for  
125 commercial damage to the product itself:

126           (a) The manufacturer, or seller, dispenser or  
127 prescriber of the product shall not be liable if the claimant does  
128 not prove by the preponderance of the evidence that at the time  
129 the product left the control of the manufacturer, or seller,  
130 dispenser or prescriber:

131                   (i) 1. The product was defective because it  
132 deviated in a material way from the manufacturer's specifications  
133 or from otherwise identical units manufactured to the same  
134 manufacturing specifications, or

135                               2. The product was defective because it  
136 failed to contain adequate warnings or instructions, or

137                               3. The product was designed in a defective  
138 manner, or

139                               4. The product breached an express warranty  
140 or failed to conform to other express factual representations upon



141 which the claimant justifiably relied in electing to use the  
142 product; and

143 (ii) The defective condition rendered the product  
144 unreasonably dangerous to the user or consumer; and

145 (iii) The defective and unreasonably dangerous  
146 condition of the product proximately caused the damages for which  
147 recovery is sought.

148 (b) A product is not defective in design or formulation  
149 if the harm for which the claimant seeks to recover compensatory  
150 damages was caused by an inherent characteristic of the product  
151 which is a generic aspect of the product that cannot be eliminated  
152 without substantially compromising the product's usefulness or  
153 desirability and which is recognized by the ordinary person with  
154 the ordinary knowledge common to the community.

155 (c) (i) In any action alleging that a product is  
156 defective because it failed to contain adequate warnings or  
157 instructions pursuant to paragraph (a)(i)2 of this section, the  
158 manufacturer, or seller, dispenser or prescriber shall not be  
159 liable if the claimant does not prove by the preponderance of the  
160 evidence that at the time the product left the control of the  
161 manufacturer, seller, dispenser or prescriber, the manufacturer or  
162 seller, dispenser or prescriber knew or in light of reasonably  
163 available knowledge should have known about the danger that caused  
164 the damage for which recovery is sought and that the ordinary user  
165 or consumer would not realize its dangerous condition.

166 (ii) An adequate product warning or instruction is  
167 one that a reasonably prudent person in the same or similar  
168 circumstances would have provided with respect to the danger and  
169 that communicates sufficient information on the dangers and safe  
170 use of the product, taking into account the characteristics of,  
171 and the ordinary knowledge common to an ordinary consumer who  
172 purchases the product; or in the case of a prescription drug,  
173 medical device or other product that is intended to be used only



174 under the supervision of a physician or other licensed  
175 professional person, taking into account the characteristics of,  
176 and the ordinary knowledge common to, a physician or other  
177 licensed professional who prescribes the drug, device or other  
178 product.

179 (d) For purposes of this section:

180 (i) "Seller" means any person or entity that sells  
181 products of any kind.

182 (ii) "Prescriber" means any person licensed by the  
183 State of Mississippi to prescribe medicine.

184 (iii) "Dispenser" means any person or entity  
185 licensed as a pharmacist or pharmacy.

186 (e) In any action alleging that a product is defective  
187 pursuant to paragraph (a) of this section, the manufacturer,  
188 seller, dispenser or prescriber shall not be liable if the  
189 claimant (i) had knowledge of a condition of the product that was  
190 inconsistent with his safety; (ii) appreciated the danger in the  
191 condition; and (iii) deliberately and voluntarily chose to expose  
192 himself to the danger in such a manner to register assent on the  
193 continuance of the dangerous condition.

194 (f) In any action alleging that a product is defective  
195 pursuant to paragraph (a)(i)2 of this section, the manufacturer,  
196 seller, dispenser or prescriber shall not be liable if the danger  
197 posed by the product is known or is open and obvious to the user  
198 or consumer of the product, or should have been known or open and  
199 obvious to the user or consumer of the product, taking into  
200 account the characteristics of, and the ordinary knowledge common  
201 to, the persons who ordinarily use or consume the product.

202 (g) In any action alleging that a product is defective  
203 because of its design pursuant to paragraph (a)(i)3 of this  
204 section, the manufacturer or product seller shall not be liable if  
205 the claimant does not prove by the preponderance of the evidence



206 that at the time the product left the control of the manufacturer  
207 or seller:

208 (i) The manufacturer, seller, dispenser or  
209 prescriber knew, or in light of reasonably available knowledge or  
210 in the exercise of reasonable care should have known, about the  
211 danger that caused the damage for which recovery is sought; and

212 (ii) The product failed to function as expected  
213 and there existed a feasible design alternative that would have to  
214 a reasonable probability prevented the harm. A feasible design  
215 alternative is a design that would have to a reasonable  
216 probability prevented the harm without impairing the utility,  
217 usefulness, practicality or desirability of the product to users  
218 or consumers.

219 (h) (i) The manufacturer of a product who is found  
220 liable for a defective product pursuant to paragraph (a) shall  
221 indemnify a product seller, dispenser or prescriber for the costs  
222 of litigation, any reasonable expenses, reasonable attorney's fees  
223 and any damages awarded by the trier of fact unless the seller,  
224 dispenser or prescriber exercised substantial control over that  
225 aspect of the design, testing, manufacture, packaging or labeling  
226 of the product that caused the harm for which recovery of damages  
227 is sought; the seller, dispenser or prescriber altered or modified  
228 the product, and the alteration or modification was a substantial  
229 factor in causing the harm for which recovery of damages is  
230 sought; the seller, dispenser or prescriber had actual knowledge  
231 of the defective condition of the product at the time he supplied  
232 same; or the seller, dispenser or prescriber made an express  
233 factual representation about the aspect of the product which  
234 caused the harm for which recovery of damages is sought.

235 (ii) Subparagraph (i) shall not apply unless the  
236 seller has given prompt notice of the suit to the manufacturer  
237 within thirty (30) days of the filing of the complaint against the  
238 seller.



239           (i) With respect to manufacturers of drugs or medical  
240 devices, an agent or employee of such manufacturer who directly  
241 participates in or authorizes the commission of a tort, shall be  
242 subject to liability for any tortious conduct committed within the  
243 course and scope of employment. It is the intent of this  
244 paragraph to immunize innocent medical providers including  
245 pharmacists and licensed pharmacies who are not actively negligent  
246 from forum-driven lawsuits.

247           (j) Nothing in this section shall be construed to  
248 eliminate any common law defense to an action for damages caused  
249 by a product.

250           **SECTION 8.** No owner, occupant, lessee or managing agent of  
251 property shall be civilly liable for the criminal acts of a third  
252 party, unless such owner, occupant, lessee or managing agent knew  
253 or, with the exercise of reasonable diligence, should have known  
254 of the risk of criminal conduct on or around such property and the  
255 failure to take reasonable measures to deter such foreseeable  
256 conduct is a proximate cause of damages to an individual or  
257 entity.

258           **SECTION 9.** If a party files any pleading commencing a civil  
259 action, which in the opinion of the court is frivolous, the court  
260 may impose an assessment of not more than One Thousand Dollars  
261 (\$1,000.00) against each attorney of record for the party  
262 commencing the suit. Such assessment shall be in addition to any  
263 other assessments, penalties or sanctions authorized by law or  
264 otherwise. The proceeds of any assessment imposed under this  
265 section shall be paid to the Mississippi Bar for use in the  
266 Mississippi Volunteer Lawyers Project, Inc., or other programs  
267 operated by the Mississippi Bar for the purpose of providing legal  
268 services for the poor.

269           **SECTION 10.** An attorney who is not admitted to the  
270 Mississippi Bar shall not advertise his legal services in this  
271 state for the purpose of soliciting prospective clients for the





272 commencing of any civil action in this state, or for the purpose  
273 of soliciting clients for any civil action already commenced or  
274 pending in this state, unless the attorney who is not a member of  
275 the Mississippi Bar has associated an attorney who (a) is a member  
276 of the Mississippi Bar; and (b) will be associated in any civil  
277 action filed on behalf of a client solicited as a result of the  
278 advertisement. A law firm composed of both attorneys who are  
279 members of the Mississippi Bar and attorneys who are not members  
280 of the Mississippi Bar may advertise in this state if a majority  
281 of the members of the firm are members of the Mississippi Bar.  
282 For purposes of this section, a listing in the residential or  
283 business section of the white pages of a telephone book shall not  
284 be an advertisement.

285       **SECTION 11.** Section 85-5-7, Mississippi Code of 1972, as  
286 amended by House Bill No. 2, Third Extraordinary Session 2002, is  
287 amended as follows:

288       85-5-7. (1) As used in this section "fault" means an act or  
289 omission of a person which is a proximate cause of injury or death  
290 to another person or persons, damages to property, tangible or  
291 intangible, or economic injury, including, but not limited to,  
292 negligence, malpractice, strict liability, absolute liability or  
293 failure to warn. "Fault" shall not include any tort which results  
294 from an act or omission committed with a specific wrongful intent.

295       (2) Except as may be otherwise provided in subsections (6),  
296 (8) and (9) of this section, in any civil action based on fault,  
297 the liability for damages caused by two (2) or more persons shall  
298 be joint and several only to the extent necessary for the person  
299 suffering injury, death or loss to recover fifty percent (50%) of  
300 his recoverable damages.

301       (3) Except as otherwise provided in subsections (2) and (6)  
302 of this section, in any civil action based on fault, the liability  
303 for damages caused by two (2) or more persons shall be several  
304 only, and not joint and several and a joint tort-feasor shall be



305 liable only for the amount of damages allocated to him in direct  
306 proportion to his percentage of fault. In assessing percentages  
307 of fault an employer and the employer's employee or a principal  
308 and the principal's agent shall be considered as one (1) defendant  
309 when the liability of such employer or principal has been caused  
310 by the wrongful or negligent act or omission of the employee or  
311 agent.

312 (4) Any defendant held jointly liable under this section  
313 shall have a right of contribution against fellow joint  
314 tort-feasors. A defendant shall be held responsible for  
315 contribution to other joint tort-feasors only for the percentage  
316 of fault assessed to such defendant.

317 (5) Nothing in this section shall eliminate or diminish any  
318 defenses or immunities which currently exist, except as expressly  
319 noted herein.

320 (6) Joint and several liability shall be imposed on all who  
321 consciously and deliberately pursue a common plan or design to  
322 commit a tortious act, or actively take part in it. Any person  
323 held jointly and severally liable under this section shall have a  
324 right of contribution from his fellow defendants acting in  
325 concert.

326 (7) In actions involving joint tort-feasors, the trier of  
327 fact shall determine the percentage of fault for each party  
328 alleged to be at fault.

329 (8) Except as provided in subsection (6) of this section, in  
330 any action against a licensed physician, psychologist, osteopath,  
331 dentist, nurse, nurse practitioner, physician assistant,  
332 pharmacist, podiatrist, optometrist, chiropractor, hospital,  
333 institution for the aged or infirm, or licensed pharmacy,  
334 including any legal entity which may be liable for their acts or  
335 omissions, for malpractice, negligence, error, omission, mistake  
336 or the unauthorized rendering of professional services which  
337 involve joint tort-feasors, the trier of fact shall determine the



338 percentage of fault for each joint tort-feasor, including named  
339 parties and absent tort-feasors, without regard to whether the  
340 joint tort-feasor is immune from damages. For noneconomic  
341 damages, a defendant's liability shall be several only. For  
342 economic damages, for any defendant whose fault is determined to  
343 be less than thirty percent (30%), liability shall be several only  
344 and for any defendant whose fault is determined to be thirty  
345 percent (30%) or more, liability shall be joint and several only  
346 to the extent necessary for the person suffering injury, death or  
347 loss to recover fifty percent (50%) of his recoverable damages.  
348 Fault allocated under this subsection to an immune tort-feasor or  
349 a tort-feasor whose liability is limited by law shall not be  
350 reallocated to any other tort-feasor.

351       (9) Except as provided in subsections (6) and (8) of this  
352 section, in actions involving joint tort-feasor, the trier of fact  
353 shall determine the percentage of fault for each joint  
354 tort-feasor, including named parties and absent tort-feasors,  
355 without regard to whether the joint tort-feasor is immune from  
356 damages. For any defendant whose fault is determined to be ten  
357 percent (10%) or less, liability shall be several only and for any  
358 defendant whose fault is determined to be more than ten percent  
359 (10%), liability shall be joint and several only to the extent  
360 necessary for the person suffering, injury, death or loss to  
361 recover fifty percent (50%) of his recoverable damages. Fault  
362 allocated under this subsection to an immune tort-feasor or a  
363 tort-feasor whose liability is limited by law shall not be  
364 reallocated to any other tort-feasor.

365       (10) Nothing in this section shall be construed to create a  
366 cause of action. Nothing in this section shall be construed, in  
367 any way, to alter the immunity of any person.

368       **SECTION 12.** (1) Notwithstanding any other provision of law,  
369 in an action based upon injury, wrongful death, or financial loss  
370 allegedly caused by a defective product, financial fraud, unfair



371 insurance claims practice or environmental hazard, other than any  
372 action classified by a court as a mass tort action, information  
373 concerning the defective product, financial fraud, unfair  
374 insurance claims practice or environmental hazard, which is  
375 contained in a settlement agreement pertaining to the action and  
376 not filed with the court shall be presumed to be public  
377 information and may not be kept confidential pursuant to agreement  
378 of the parties. This information may be kept confidential for a  
379 period that the court deems appropriate only pursuant to a court  
380 order.

381 As used in this section:

382 (a) "Defective product" means a product that may be  
383 defective because of a defect in manufacturing or design or a  
384 failure to adequately warn the consumer of a hazard involved in  
385 the foreseeable use of the product, where the defect may result in  
386 personal injury to one or more persons.

387 (b) "Financial fraud" means any fraudulent insurance  
388 practice or any fraudulent plan or scheme to sell a publicly  
389 offered investment product without full disclosure of the risks  
390 associated with the purchase of the product, where the plan or  
391 scheme may cause or has caused financial loss.

392 (c) "Environmental hazard" means a release or  
393 threatened release of a hazardous substance that poses a threat to  
394 public health or safety involving present or future danger of  
395 death, bodily injury or health disability to human beings exposed  
396 to a hazardous substance release or threatened release.

397 **SECTION 13.** Section 75-26-5, Mississippi Code of 1972, is  
398 amended as follows:

399 75-26-5. (1) Except as provided in Section \_\_\_\_\_ of House  
400 Bill No. 2, Third Extraordinary Session 2002, actual or threatened  
401 misappropriation may be enjoined. Upon application to the court,  
402 an injunction shall be terminated when the trade secret has ceased  
403 to exist, but the injunction may be continued for an additional



404 reasonable period of time in order to eliminate commercial  
405 advantage that otherwise would be derived from the  
406 misappropriation.

407 (2) In exceptional circumstances, an injunction may  
408 condition future use upon payment of a reasonable royalty for no  
409 longer than the period of time for which use could have been  
410 prohibited. Exceptional circumstances include, but are not  
411 limited to, a material and prejudicial change of position prior to  
412 acquiring knowledge or reason to know of misappropriation that  
413 renders a prohibitive injunction inequitable.

414 (3) In appropriate circumstances, affirmative acts to  
415 protect a trade secret may be compelled by court order.

416 **SECTION 14.** Section 75-26-11, Mississippi Code of 1972, is  
417 amended as follows:

418 75-26-11. Except as provided in Section \_\_\_\_\_ of House  
419 Bill No. 2, Third Extraordinary Session 2002, in an action under  
420 this chapter, a court shall preserve the secrecy of an alleged  
421 trade secret by reasonable means, which may include granting  
422 protective orders in connection with discovery proceedings,  
423 holding in-camera hearings, sealing the records of the action and  
424 ordering any person involved in the litigation not to disclose an  
425 alleged trade secret without prior court approval.

426 **SECTION 15.** Section 75-26-15, Mississippi Code of 1972, is  
427 amended as follows:

428 75-26-15. (1) Except as provided in subsection (2), this  
429 chapter displaces conflicting tort, restitutionary and other law  
430 of this state providing civil remedies for misappropriation of a  
431 trade secret.

432 (2) This chapter does not affect:

433 (a) Contractual remedies, whether or not based upon  
434 misappropriation of a trade secret;

435 (b) Other civil remedies that are not based upon  
436 misappropriation of a trade secret; or



437 (c) Criminal remedies, whether or not based upon  
438 misappropriation of a trade secret.

439 (d) The provisions of Section of House Bill No. 2,  
440 Third Extraordinary Session 2002.

441 **SECTION 16.** For purposes of Sections 15 and 16 of this act,  
442 the following words and phrases shall have the meanings ascribed  
443 in this section unless the context clearly indicates otherwise:

444 (a) "Sponsor or advertiser" means any person,  
445 corporation or legal entity which, for charitable purposes or to  
446 promote goodwill in the community, (i) sells, rents, manufactures  
447 or provides products, equipment or promotional materials, or (ii)  
448 donates or contributes money or fees, in order that an event may  
449 be held or conducted.

450 (b) "Event" means a concert, benefit, fund-raiser,  
451 auction or other occasion at which entertainment, food and  
452 beverages are provided to persons who purchase tickets to attend  
453 the event.

454 **SECTION 17.** (1) Any sponsor or advertiser of an event,  
455 which does not exercise control over any aspect of the event other  
456 than acting as a sponsor or advertiser, shall be immune from  
457 liability for any civil action arising out of activities occurring  
458 on the premises of the location where the event is held or  
459 conducted.

460 (2) No sponsor or advertiser shall be liable to a person who  
461 may lawfully consume any intoxicating beverage for any injury  
462 suffered by such person, or by any other person, off the premises  
463 of the event, including wrongful death and property damage,  
464 because of the intoxication of the person to whom the intoxicating  
465 beverages were served or furnished when on the premises of the  
466 event.

467 (3) This section shall not extend immunity to willful acts  
468 or gross negligence on the part of a sponsor or advertiser;  
469 however, the sponsor or advertiser shall not be considered to be a



470 part of a joint venture or the principal of an agent, with regard  
471 to any other person, corporation or legal entity which is  
472 participating in the event in any capacity other than that of  
473 sponsor or advertiser.

474 **SECTION 18.** Section 67-3-73, Mississippi Code of 1972, is  
475 amended as follows:

476 67-3-73. (1) The Mississippi Legislature finds and declares  
477 that the consumption of intoxicating beverages, rather than the  
478 sale or serving or furnishing of such beverages, is the proximate  
479 cause of any injury, including death and property damage,  
480 inflicted by an intoxicated person upon himself or upon another  
481 person.

482 (2) Notwithstanding any other law to the contrary, no holder  
483 of an alcoholic beverage, beer or light wine permit, or any agent  
484 or employee of such holder, who lawfully sells or serves  
485 intoxicating beverages to a person who may lawfully purchase such  
486 intoxicating beverages, shall be liable to such person or to any  
487 other person or to the estate, or survivors of either, for any  
488 injury suffered off the licensed premises, including wrongful  
489 death and property damage, because of the intoxication of the  
490 person to whom the intoxicating beverages were sold or served.

491 (3) Notwithstanding any other law to the contrary, no social  
492 host who serves or furnishes any intoxicating beverage to a person  
493 who may lawfully consume such intoxicating beverage shall be  
494 liable to such person or to any other person or to the estate, or  
495 survivors of either, for any injury suffered off such social  
496 host's premises, including wrongful death and property damage,  
497 because of the intoxication of the person to whom the intoxicating  
498 beverages were served or furnished. No social host who owns,  
499 leases or otherwise lawfully occupies a premises on which, in his  
500 absence and without his consent, intoxicating beverages are  
501 consumed by a person who may lawfully consume such intoxicating  
502 beverage shall be liable to such person or to any other person or



503 to the estate, or survivors of either, for any injury suffered off  
504 the premises, including wrongful death and property damage,  
505 because of the intoxication of the person who consumed the  
506 intoxicating beverages.

507       (4) Notwithstanding any other law to the contrary, no holder  
508 of a permit allowing such person to engage in business as a  
509 manufacturer of or a wholesaler of beer or light wine, or any  
510 agent or employee of such holder, who lawfully sells beer or light  
511 wine to a person holding a permit allowing such person to engage  
512 in business as a retailer of beer or light wine shall be liable to  
513 such person or to any other person or to the estate, or survivors  
514 of either, for any injury suffered off the licensed premises of  
515 the person holding the retail permit, including wrongful death and  
516 property damage, because of the intoxication of the person to whom  
517 the beer or light wine was sold or served by the holder of a  
518 retailer permit.

519       (5) Except as otherwise provided in this subsection (5), the  
520 limitation of liability provided by this section shall not apply  
521 to any person who causes or contributes to the consumption of  
522 alcoholic beverages by force or by falsely representing that a  
523 beverage contains no alcohol, or to any holder of an alcoholic  
524 beverage, beer or light wine permit, or any agent or employee of  
525 such holder when it is shown that the person making a purchase of  
526 an alcoholic beverage was at the time of such purchase visibly  
527 intoxicated. This subsection (5) shall not apply to the  
528 limitation of liability provided in subsection (4) of this  
529 section.

530       **SECTION 19.** The following shall be codified as Section  
531 11-7-30, Mississippi Code of 1972:

532       11-7-30. Civil actions in circuit court shall not be  
533 assigned to a judge until at least one (1) defendant has filed a  
534 responsive pleading.





535           **SECTION 20.** If any provision of this act is held by a court  
536 to be invalid, such invalidity shall not affect the remaining  
537 provisions of this act, and to this end the provisions of this act  
538 are declared severable.

539           **SECTION 21.** This act shall take effect and be in force from  
540 and after its passage, and shall apply only to causes of action  
541 occurring on or after that date.

