

By: Representative Smith (27th)

To: Gaming; Ways and Means

## HOUSE BILL NO. 432

1 AN ACT TO CREATE A STATE LOTTERY; TO PROVIDE THAT THE STATE  
2 LOTTERY SHALL BE ADMINISTERED BY THE MISSISSIPPI GAMING  
3 COMMISSION; TO PROVIDE THE POWERS AND DUTIES OF THE MISSISSIPPI  
4 GAMING COMMISSION REGARDING THE STATE LOTTERY; TO PROVIDE FOR THE  
5 DISPOSITION OF PROCEEDS RECEIVED FROM THE SALE OF LOTTERY TICKETS;  
6 TO PROVIDE THAT THE LOTTERY MAY BE CONDUCTED IN ANY COUNTY OF THE  
7 STATE THAT ELECTS TO PARTICIPATE IN THE LOTTERY; TO PROVIDE THE  
8 PROCEDURE FOR AN ELECTION TO BE CONDUCTED IN A COUNTY TO DETERMINE  
9 WHETHER THE COUNTY WILL PARTICIPATE IN THE LOTTERY; TO CREATE THE  
10 TEACHER AND STATE EMPLOYEE PAY RAISE TRUST FUND INTO WHICH A  
11 PORTION OF THE PROCEEDS COLLECTED FROM THE SALE OF LOTTERY TICKETS  
12 SHALL BE DEPOSITED; TO PROVIDE THAT THE INVESTMENT EARNINGS FROM  
13 THE TEACHER AND STATE EMPLOYEE PAY RAISE TRUST FUND MAY BE  
14 APPROPRIATED BY THE LEGISLATURE FOR THE PURPOSE OF PROVIDING FUNDS  
15 FOR TEACHER AND STATE EMPLOYEE PAY RAISES; TO AMEND SECTIONS  
16 67-1-71, 75-76-3, 75-76-5, 97-33-9, 97-33-11, 97-33-13, 97-33-21,  
17 97-33-23, 97-33-31, 97-33-33, 97-33-35, 97-33-37, 97-33-39,  
18 97-33-41, 97-33-43, 97-33-45, 97-33-47 AND 97-33-49, MISSISSIPPI  
19 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO  
20 AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM  
21 SALES TAXATION THE SALE OF LOTTERY TICKETS; AND FOR RELATED  
22 PURPOSES.

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

24 **SECTION 1.** As used in Sections 1 through 3 of this act, the  
25 following words and phrases shall have the meanings ascribed in  
26 this section unless the context clearly indicates otherwise:

27 (a) "Commission" means the Mississippi Gaming  
28 Commission.

29 (b) "Distributor" means any person authorized by the  
30 Mississippi Gaming Commission to distribute lottery tickets to  
31 retailers. A person having a gaming license issued under Section  
32 75-76-1 et seq., may be a distributor.

33 (c) "Lottery" means any activity approved by the  
34 Mississippi Gaming Commission in which:

35 (i) The player or players pay or agree to pay  
36 something of value for chances, represented and differentiated by  
37 tickets, slips of paper or other physical and tangible

38 documentation upon which appear numbers, symbols, characters or  
39 other distinctive marks used to identify and designate the winner  
40 or winners;

41 (ii) The winning chance or chances are to be  
42 determined by a drawing or similar selection method based  
43 predominately upon the element of chance or random selection  
44 rather than upon the skill or judgment of the player or players;

45 (iii) The holder or holders of the winning chance  
46 or chances are to receive a prize or something of valuable  
47 consideration; and

48 (iv) The activity is conducted and participated in  
49 without regard to geographical location, with the player or  
50 players not being required to be present upon any particular  
51 premises or at any particular location in order to participate or  
52 to win.

53 (d) "Person" means any association, corporation, firm,  
54 partnership, trust or other form or business association as well  
55 as a natural person.

56 (e) "Retailer" means any person authorized by the  
57 Mississippi Gaming Commission to sell lottery tickets to the  
58 public. A person having a gaming license issued under Section  
59 75-76-1 et seq., may be a retailer if located in a county that has  
60 elected to participate in the state lottery.

61 **SECTION 2.** (1) There is created and established a state  
62 lottery which shall be conducted in each county that elects to  
63 participate pursuant to Section 3 of this act.

64 (2) The Mississippi Gaming Commission shall administer the  
65 state lottery and shall have the authority to:

66 (a) Prescribe the method and form of application which  
67 an applicant for a distributor's license or retailer's license, or  
68 both, must follow and complete before consideration of his  
69 application by the commission;

70           (b) Prescribe guidelines for the review of applications  
71 for licenses and the approval or disapproval of such applications;  
72           (c) Require an applicant to pay all or any part of the  
73 fees and costs of investigation of such applicant as may be  
74 determined by the commission, except that no applicant for an  
75 initial license shall be required to pay any part of the fees or  
76 costs of the investigation of the applicant with regard to the  
77 initial license;  
78           (d) Prescribe the manner and method of collection and  
79 payment of fees and issuance of licenses;  
80           (e) Prescribe conditions under which a licensee may be  
81 subject to or revocation or suspension of his license;  
82           (f) Prescribe guidelines regarding the conduct of  
83 specific lottery games, including, but not limited to:  
84               (i) The types of games to be conducted;  
85               (ii) The sale price of tickets;  
86               (iii) The number and amount of prizes;  
87               (iv) The method and location of selecting or  
88 validating winning tickets;  
89               (v) The frequency and means of conducting drawings  
90 which shall be open to the public;  
91               (vi) The manner of payment of prizes;  
92               (vii) The frequency of games and drawings; and  
93               (viii) Any other matters necessary or desirable  
94 for the efficient and effective operation of lottery games;  
95           (g) Enter into contracts with distributors for the  
96 distribution of lottery tickets to retailers; and  
97           (h) Take any action necessary for the implementation  
98 and administration of the provisions of Sections 1 and 2 of this  
99 act and promulgate rules and regulations necessary for the  
100 implementation and administration of the provisions of Sections 1  
101 and 2 of this act.

102           (3) No ticket shall knowingly be sold to any person under  
103 the age of eighteen (18), but this subsection (3) does not  
104 prohibit the purchase of a ticket by a person eighteen (18) years  
105 of age or older for the purpose of making a gift to any person of  
106 any age. In such case, the commission shall direct payment to an  
107 adult member of the person's family or the legal guardian of the  
108 person on behalf of such person.

109           (4) The proceeds received from the sale of lottery tickets,  
110 less a percentage determined by the commission to be retained by a  
111 retailer selling a ticket, shall be remitted to the commission on  
112 a monthly basis. The commission shall deposit the proceeds into  
113 the State Treasury on the day collected. At the end of each  
114 month, the commission shall certify the total proceeds collected  
115 from the sale of lottery tickets to the State Treasurer who shall  
116 distribute such collections as follows:

117           (a) Two percent (2%) of the proceeds collected during  
118 the preceding month from the sale of lottery tickets within a  
119 county shall be allocated for distribution to such county and paid  
120 to such county.

121           (b) Eight percent (8%) of the proceeds collected during  
122 the preceding month from the sale of lottery tickets in the state  
123 shall be deposited into the Teacher and State Employee Pay Raise  
124 Trust Fund created in Section 4 of this act.

125           (c) A percentage, as determined by the commission, of  
126 the proceeds collected during the preceding month from the sale of  
127 lottery tickets in the state shall be allocated for distribution  
128 to the commission and paid to the commission to defray the costs  
129 of administering the provisions of Sections 1 and 2 of this act.

130           (d) The remainder of the proceeds collected during the  
131 preceding month from the sale of lottery tickets in the state  
132 shall be allocated for distribution and distributed evenly to all  
133 of the counties in the state.

134           SECTION 3. (1) A county may participate in the lottery only  
135 after an affirmative vote to do so at an election called and  
136 conducted in the manner prescribed in this section.

137           (2) If a petition is filed with the circuit clerk of a  
138 county signed by at least twenty percent (20%) or fifteen hundred  
139 (1500), whichever is less, of the registered voters of the county  
140 requesting that the county participate in the lottery, the board  
141 of supervisors of such county shall authorize the circuit clerk to  
142 hold an election on the proposition of allowing the lottery to be  
143 conducted in the county. The referendum shall be held not less  
144 than thirty (30) days nor more than sixty (60) days after the  
145 certification by the circuit clerk to the board of supervisors of  
146 signatures and of the percentage; however, if the petition is  
147 certified within ninety (90) days of a general election, the  
148 referendum shall be held at the same time as the general election.  
149 The referendum shall be advertised, held and conducted and the  
150 result thereof canvassed in the manner provided by law for  
151 advertising, holding and canvassing county elections.

152           (3) At such election, all qualified electors of such county  
153 may vote. The ballots used at such election shall have printed  
154 thereon a brief statement of the purpose of the election and the  
155 words "FOR A LOTTERY IN THE COUNTY AS PRESCRIBED BY LAW" and  
156 "AGAINST A LOTTERY IN THE COUNTY AS PRESCRIBED BY LAW." The voter  
157 shall vote by placing a cross (x) or check mark (√) opposite his  
158 choice on the proposition. If a majority of the qualified  
159 electors who vote in such election shall vote in favor of allowing  
160 the lottery to be conducted in the county, then the lottery may  
161 henceforth be conducted in the county as prescribed by law. If  
162 less than a majority of the qualified electors who vote in such  
163 election shall vote in favor of allowing the lottery to be  
164 conducted in the county, then the lottery shall be prohibited in  
165 the county and no subsequent election shall be held for one (1)  
166 year.

167           **SECTION 4.** (1) There is created in the State Treasury a  
168 special fund to be designated as the "Teacher and State Employee  
169 Pay Raise Trust Fund," into which shall be deposited such funds as  
170 provided in Section 2(4)(b) of this act. All investment earnings  
171 or interest earned on amounts in the fund shall be deposited to  
172 the credit of the fund. Amounts remaining in the fund at the end  
173 of a fiscal year shall not lapse into the State General Fund.

174           (2) The Teacher and State Employee Pay Raise Trust Fund  
175 shall remain inviolate and shall never be expended, except as  
176 provided in this section. Beginning in fiscal year 2006 and for  
177 each subsequent fiscal year, the Legislature may appropriate from  
178 the Teacher and State Employee Pay Raise Trust Fund an amount not  
179 greater than the aggregate investment earnings and interest earned  
180 during the preceding fiscal year on amounts in the fund. Such  
181 appropriation shall be for the purpose of providing funds for  
182 teacher and state employee pay raises but shall not be considered  
183 to be the only source for providing funds for such pay raises.

184           **SECTION 5.** Section 67-1-71, Mississippi Code of 1972, is  
185 amended as follows:

186           67-1-71. The commission may revoke or suspend any permit  
187 issued by it for a violation by the permittee of any of the  
188 provisions of this chapter or of the regulations promulgated under  
189 it by the commission.

190           Permits must be revoked or suspended for the following  
191 causes:

192           (a) Conviction of the permittee for the violation of  
193 any of the provisions of this chapter;

194           (b) Willful failure or refusal by any permittee to  
195 comply with any of the provisions of this chapter or of any rule  
196 or regulation adopted pursuant thereto;

197           (c) The making of any materially false statement in any  
198 application for a permit;

199           (d) Conviction of one or more of the clerks, agents or  
200 employees of the permittee, of any violation of this chapter upon  
201 the premises covered by such permit within a period of time as  
202 designated by the rules or regulations of the commission;

203           (e) The possession on the premises of any retail  
204 permittee of any alcoholic beverages upon which the tax has not  
205 been paid;

206           (f) The willful failure of any permittee to keep the  
207 records or make the reports required by this chapter, or to allow  
208 an inspection of such records by any duly authorized person;

209           (g) The suspension or revocation of a permit issued to  
210 the permittee by the federal government, or conviction of  
211 violating any federal law relating to alcoholic beverages;

212           (h) The failure to furnish any bond required by this  
213 chapter within fifteen (15) days after notice from the commission;  
214 and

215           (i) The conducting of any form of illegal gambling on  
216 the premises of any permittee or on any premises connected  
217 therewith or the presence on any such premises of any gambling  
218 device with the knowledge of the permittee.

219           The provisions of paragraph (i) of this section shall not  
220 apply to gambling or the presence of any gambling devices, with  
221 knowledge of the permittee, on board a cruise vessel in the waters  
222 within the State of Mississippi, which lie adjacent to the State  
223 of Mississippi south of the three (3) most southern counties in  
224 the State of Mississippi, or on any vessel as defined in Section  
225 27-109-1 whenever such vessel is on the Mississippi River or  
226 navigable waters within any county bordering on the Mississippi  
227 River. The commission may, in its discretion, issue on-premises  
228 retailer's permits to a common carrier of the nature described in  
229 this paragraph.

230       The provisions of paragraph (i) of this section shall not  
231 apply to the operation of any game or lottery authorized by  
232 Sections 1 through 3 of House Bill No. 432, 2005 Regular Session.

233       No permit shall be revoked except after a hearing by the  
234 commission with reasonable notice to the permittee and an  
235 opportunity for him to appear and defend.

236       In addition to the causes specified in this section and other  
237 provisions of this chapter, the commission shall be authorized to  
238 suspend the permit of any permit holder for being out of  
239 compliance with an order for support, as defined in Section  
240 93-11-153. The procedure for suspension of a permit for being out  
241 of compliance with an order for support, and the procedure for the  
242 reissuance or reinstatement of a permit suspended for that  
243 purpose, and the payment of any fees for the reissuance or  
244 reinstatement of a permit suspended for that purpose, shall be  
245 governed by Section 93-11-157 or 93-11-163, as the case may be.  
246 If there is any conflict between any provision of Section  
247 93-11-157 or 93-11-163 and any provision of this chapter, the  
248 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
249 shall control.

250       **SECTION 6.** Section 75-76-3, Mississippi Code of 1972, is  
251 amended as follows:

252       75-76-3. (1) The provisions of this chapter shall not be  
253 construed to legalize any form of gaming which is prohibited under  
254 the Mississippi Constitution or the laws of this state. All legal  
255 gaming which is conducted in this state and which is otherwise  
256 authorized by law shall be regulated and licensed pursuant to the  
257 provisions of this chapter, unless the Legislature specifically  
258 provides otherwise. Nothing in this chapter shall be construed as  
259 encouraging the legalization of gambling in this state.

260       (2) The Legislature hereby finds and declares that lotteries  
261 and gaming both consist of the material element of chance. The  
262 Legislature is \* \* \* permitted by virtue of its inherent powers to



263 legislate upon lotteries and gaming as the occasion arises. The  
264 Legislature derives its power to legislate upon lotteries and  
265 gaming or gambling devices from its inherent authority over the  
266 morals and policy of the people \* \* \*.

267 (3) The Legislature hereby finds, and declares it to be the  
268 public policy of this state, that:

269 (a) Regulation of lotteries and licensed gaming is  
270 important in order that it be conducted honestly and  
271 competitively, that the rights of the creditors of licensees are  
272 protected and that it is free from criminal and corruptive  
273 elements.

274 (b) Public confidence and trust can only be maintained  
275 by strict regulation of all persons, locations, practices,  
276 associations and activities related to the operation of lotteries  
277 and licensed gaming establishments and the manufacture or  
278 distribution of gambling devices and equipment.

279 (c) All establishments where lotteries or gaming, or  
280 both, are conducted and \* \* \* manufacturers, sellers and  
281 distributors of certain lottery and gaming devices and equipment  
282 must therefore be licensed, controlled and assisted to protect the  
283 public health, safety, morals, good order and general welfare of  
284 the inhabitants of the state.

285 (4) It is the intent of the Legislature that gaming  
286 licensees and any entity authorized to conduct a lottery, to the  
287 extent practicable, employ residents of Mississippi as \* \* \*  
288 employees \* \* \* in the operation of their \* \* \* establishments  
289 located in this state.

290 (5) No applicant for a license or other affirmative  
291 commission approval has any right to a license or the granting of  
292 the approval sought. Any license issued or other commission  
293 approval granted pursuant to the provisions of this chapter is a  
294 revocable privilege, and no holder acquires any vested right  
295 therein or thereunder.

296 \* \* \*

297 **SECTION 7.** Section 75-76-5, Mississippi Code of 1972, is  
298 amended as follows:

299 75-76-5. As used in this chapter, unless the context  
300 requires otherwise:

301 (a) "Applicant" means any person who has applied for or  
302 is about to apply for a state gaming license, registration or  
303 finding of suitability under the provisions of this chapter or  
304 approval of any act or transaction for which approval is required  
305 or permitted under the provisions of this chapter.

306 (b) "Application" means a request for the issuance of a  
307 state gaming license, registration or finding of suitability under  
308 the provisions of this chapter or for approval of any act or  
309 transaction for which approval is required or permitted under the  
310 provisions of this chapter but does not include any supplemental  
311 forms or information that may be required with the application.

312 (c) "Associated equipment" means any equipment or  
313 mechanical, electromechanical or electronic contrivance, component  
314 or machine used remotely or directly in connection with gaming or  
315 with any game, race book or sports pool that would not otherwise  
316 be classified as a gaming device, including dice, playing cards,  
317 links which connect to progressive slot machines, equipment which  
318 affects the proper reporting of gross revenue, computerized  
319 systems of betting at a race book or sports pool, computerized  
320 systems for monitoring slot machines, and devices for weighing or  
321 counting money.

322 (d) "Chairman," through September 30, 1993, means the  
323 Chairman of the State Tax Commission, and thereafter means the  
324 Chairman of the Mississippi Gaming Commission.

325 (e) "Commission" or "Mississippi Gaming Commission,"  
326 through September 30, 1993, means the State Tax Commission, and  
327 thereafter means the Mississippi Gaming Commission.

328           (f) "Commission member," through September 30, 1993,  
329 means a member of the State Tax Commission, and thereafter means a  
330 member of the Mississippi Gaming Commission.

331           (g) "Credit instrument" means a writing which evidences  
332 a gaming debt owed to a person who holds a license at the time the  
333 debt is created, and includes any writing taken in consolidation,  
334 redemption or payment of a prior credit instrument.

335           (h) "Enforcement division" means a particular division  
336 supervised by the executive director that provides enforcement  
337 functions.

338           (i) "Establishment" means any premises wherein or  
339 whereon any gaming is done.

340           (j) "Executive director," through September 30, 1993,  
341 means the director appointed by the State Tax Commission pursuant  
342 to Section 75-76-15(1), and thereafter means the Executive  
343 Director of the Mississippi Gaming Commission.

344           (k) Except as otherwise provided by law, "game," or  
345 "gambling game" means any banking or percentage game played with  
346 cards, with dice or with any mechanical, electromechanical or  
347 electronic device or machine for money, property, checks, credit  
348 or any representative of value, including, without limiting the  
349 generality of the foregoing, faro, monte, roulette, keno, fan-tan,  
350 twenty-one, blackjack, seven-and-a-half, big injun, klondike,  
351 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de  
352 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,  
353 or any other game or device approved by the commission. However,  
354 "game" or "gambling game" shall not include bingo games or raffles  
355 which are held pursuant to the provisions of Section 97-33-51, or  
356 any games or lottery authorized by Sections 1 through 3 of House  
357 Bill No. 432, 2005 Regular Session.

358           The commission shall not be required to recognize any game  
359 hereunder with respect to which the commission determines it does  
360 not have sufficient experience or expertise.

361           (1) "Gaming" or "gambling" means to deal, operate,  
362 carry on, conduct, maintain or expose for play any game as defined  
363 in this chapter.

364           (m) "Gaming device" means any mechanical,  
365 electromechanical or electronic contrivance, component or machine  
366 used in connection with gaming or any game which affects the  
367 result of a wager by determining win or loss. The term includes a  
368 system for processing information which can alter the normal  
369 criteria of random selection, which affects the operation of any  
370 game, or which determines the outcome of a game. The term does  
371 not include a system or device which affects a game solely by  
372 stopping its operation so that the outcome remains undetermined,  
373 and does not include any antique coin machine as defined in  
374 Section 27-27-12.

375           (n) "Gaming employee" means any person connected  
376 directly with the operation of a gaming establishment licensed to  
377 conduct any game, including:

- 378           (i) Boxmen;
- 379           (ii) Cashiers;
- 380           (iii) Change personnel;
- 381           (iv) Counting room personnel;
- 382           (v) Dealers;
- 383           (vi) Floormen;
- 384           (vii) Hosts or other persons empowered to extend  
385 credit or complimentary services;
- 386           (viii) Keno runners;
- 387           (ix) Keno writers;
- 388           (x) Machine mechanics;
- 389           (xi) Security personnel;
- 390           (xii) Shift or pit bosses;
- 391           (xiii) Shills;
- 392           (xiv) Supervisors or managers; and
- 393           (xv) Ticket writers.

394           The term "gaming employee" also includes employees of  
395 manufacturers or distributors of gaming equipment within this  
396 state whose duties are directly involved with the manufacture,  
397 repair or distribution of gaming equipment.

398           "Gaming employee" does not include bartenders, cocktail  
399 waitresses or other persons engaged in preparing or serving food  
400 or beverages unless acting in some other capacity.

401           (o) "Gaming license" means any license issued by the  
402 state which authorizes the person named therein to engage in  
403 gaming.

404           (p) "Gross revenue" means the total of all of the  
405 following, less the total of all cash paid out as losses to  
406 patrons and those amounts paid to purchase annuities to fund  
407 losses paid to patrons over several years by independent financial  
408 institutions:

409                   (i) Cash received as winnings;

410                   (ii) Cash received in payment for credit extended  
411 by a licensee to a patron for purposes of gaming; and

412                   (iii) Compensation received for conducting any  
413 game in which the licensee is not party to a wager.

414           For the purposes of this definition, cash or the value of  
415 noncash prizes awarded to patrons in a contest or tournament are  
416 not losses.

417           The term does not include:

418                   (i) Counterfeit money or tokens;

419                   (ii) Coins of other countries which are received  
420 in gaming devices;

421                   (iii) Cash taken in fraudulent acts perpetrated  
422 against a licensee for which the licensee is not reimbursed; or

423                   (iv) Cash received as entry fees for contests or  
424 tournaments in which the patrons compete for prizes.

425           (q) "Hearing examiner" means a member of the  
426 Mississippi Gaming Commission or other person authorized by the  
427 commission to conduct hearings.

428           (r) "Investigation division" means a particular  
429 division supervised by the executive director that provides  
430 investigative functions.

431           (s) "License" means a gaming license or a  
432 manufacturer's, seller's or distributor's license.

433           (t) "Licensee" means any person to whom a valid license  
434 has been issued.

435           (u) "License fees" means monies required by law to be  
436 paid to obtain or continue a gaming license or a manufacturer's,  
437 seller's or distributor's license.

438           (v) "Licensed gaming establishment" means any premises  
439 licensed pursuant to the provisions of this chapter wherein or  
440 whereon gaming is done.

441           (w) "Manufacturer's," "seller's" or "distributor's"  
442 license means a license issued pursuant to Section 75-76-79.

443           (x) "Navigable waters" shall have the meaning ascribed  
444 to such term under Section 27-109-1.

445           (y) "Operation" means the conduct of gaming.

446           (z) "Party" means the Mississippi Gaming Commission and  
447 any licensee or other person appearing of record in any proceeding  
448 before the commission; or the Mississippi Gaming Commission and  
449 any licensee or other person appearing of record in any proceeding  
450 for judicial review of any action, decision or order of the  
451 commission.

452           (aa) "Person" includes any association, corporation,  
453 firm, partnership, trust or other form of business association as  
454 well as a natural person.

455           (bb) "Premises" means land, together with all  
456 buildings, improvements and personal property located thereon, and  
457 includes all parts of any vessel or cruise vessel.

458           (cc) "Race book" means the business of accepting wagers  
459 upon the outcome of any event held at a track which uses the  
460 pari-mutuel system of wagering.

461           (dd) "Regulation" means a rule, standard, directive or  
462 statement of general applicability which effectuates law or policy  
463 or which describes the procedure or requirements for practicing  
464 before the commission. The term includes a proposed regulation  
465 and the amendment or repeal of a prior regulation but does not  
466 include:

467                   (i) A statement concerning only the internal  
468 management of the commission and not affecting the rights or  
469 procedures available to any licensee or other person;

470                   (ii) A declaratory ruling;

471                   (iii) An interagency memorandum;

472                   (iv) The commission's decision in a contested case  
473 or relating to an application for a license; or

474                   (v) Any notice concerning the fees to be charged  
475 which are necessary for the administration of this chapter.

476           (ee) "Respondent" means any licensee or other person  
477 against whom a complaint has been filed with the commission.

478           (ff) "Slot machine" means any mechanical, electrical or  
479 other device, contrivance or machine which, upon insertion of a  
480 coin, token or similar object, or upon payment of any  
481 consideration, is available to play or operate, the play or  
482 operation of which, whether by reason of the skill of the operator  
483 or application of the element of chance, or both, may deliver or  
484 entitle the person playing or operating the machine to receive  
485 cash, premiums, merchandise, tokens or anything of value, whether  
486 the payoff is made automatically from the machine or in any other  
487 manner. The term does not include any antique coin machine as  
488 defined in Section 27-27-12.

489           (gg) "Sports pool" means the business of accepting  
490 wagers on sporting events, except for athletic events, by any

491 system or method of wagering other than the system known as the  
492 "pari-mutuel method of wagering."

493 (hh) "Temporary work permit" means a work permit which  
494 is valid only for a period not to exceed ninety (90) days from its  
495 date of issue and which is not renewable.

496 (ii) "Vessel" or "cruise vessel" shall have the  
497 meanings ascribed to such terms under Section 27-109-1.

498 (jj) "Work permit" means any card, certificate or  
499 permit issued by the commission, whether denominated as a work  
500 permit, registration card or otherwise, authorizing the employment  
501 of the holder as a gaming employee. A document issued by any  
502 governmental authority for any employment other than gaming is not  
503 a valid work permit for the purposes of this chapter.

504 (kk) "School or training institution" means any school  
505 or training institution which is licensed by the commission to  
506 teach or train gaming employees pursuant to Section 75-76-34.

507 (ll) "Cheat" means to alter the selection of criteria  
508 that determine:

509 (i) The rules of a game; or

510 (ii) The amount or frequency of payment in a game.

511 **SECTION 8.** Section 97-33-9, Mississippi Code of 1972, is  
512 amended as follows:

513 97-33-9. If any person shall be guilty of keeping or  
514 exhibiting any game or gaming table commonly called A.B.C. or E.O.  
515 roulette or rowley-powley, or rouge et noir, roredo, keno, monte,  
516 or any faro-bank, or other game, gaming table, or bank of the same  
517 or like kind or any other kind or description under any other name  
518 whatever, or shall be in any manner either directly or indirectly  
519 interested or concerned in any gaming tables, banks, or games,  
520 either by furnishing money or articles for the purpose of carrying  
521 on the same, being interested in the loss or gain of said table,  
522 bank or games, or employed in any manner in conducting, carrying  
523 on, or exhibiting said gaming tables, games, or banks, every



524 person so offending and being thereof convicted, shall be fined  
525 not less than Twenty-five Dollars (\$25.00) nor more than Two  
526 Thousand Dollars (\$2,000.00), or be imprisoned in the county jail  
527 not longer than two (2) months, or by both such fine and  
528 imprisonment, in the discretion of the court. Nothing in this  
529 section shall apply to any person who owns, possesses, controls,  
530 installs, procures, repairs or transports any gambling device,  
531 machine or equipment in accordance with subsection (4) of Section  
532 97-33-7 or Section 75-76-34.

533 This section shall not apply to the operation of any game or  
534 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
535 2005 Regular Session.

536 **SECTION 9.** Section 97-33-11, Mississippi Code of 1972, is  
537 amended as follows:

538 97-33-11. It shall not be lawful for any association of  
539 persons of the character commonly known as a "club," whether such  
540 association be incorporated or not, in any manner, either directly  
541 or indirectly, to have any interest or concern in any gambling  
542 tables, banks, or games, by means of what is sometimes called a  
543 "rake-off" or "take-out," or by means of an assessment upon  
544 certain combinations, or hands at cards, or by means of a  
545 percentage extracted from players, or an assessment made upon, or  
546 a contribution from them, or by any other means, device or  
547 contrivance whatsoever. It shall not be lawful for such an  
548 association to lend or advance money or any other valuable thing  
549 to any person engaged or about to engage in playing any game of  
550 chance prohibited by law, or to become responsible directly or  
551 indirectly for any money or other valuable thing lost, or which  
552 may be lost, by any player in any such game. If any such  
553 association shall violate any of the provisions of this section  
554 each and every member thereof shall be guilty of a misdemeanor,  
555 and, upon conviction thereof, shall be fined in a sum not more  
556 than Five Hundred Dollars (\$500.00); and unless such fine and

557 costs be immediately paid, shall be imprisoned in the county jail  
558 for not less than five (5) nor more than twenty (20) days. Each  
559 grand jury shall cause such of the members of such an association  
560 as it may choose to appear before them and submit to examination  
561 touching the observance or nonobservance by such association of  
562 the provisions hereof.

563 This section shall not apply to the operation of any game or  
564 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
565 2005 Regular Session.

566 **SECTION 10.** Section 97-33-13, Mississippi Code of 1972, is  
567 amended as follows:

568 97-33-13. Any owner, lessee, or occupant of any outhouse or  
569 other building, who shall knowingly permit or suffer any of the  
570 before mentioned tables, banks, or games, or any other game  
571 prohibited by law, to be carried on, kept, or exhibited in his  
572 said house or other building, or on his lot or premises, being  
573 thereof convicted, shall be fined not less than One Hundred  
574 Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00).

575 This section shall not apply to the operation of any game or  
576 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
577 2005 Regular Session.

578 **SECTION 11.** Section 97-33-21, Mississippi Code of 1972, is  
579 amended as follows:

580 97-33-21. Any person of full age who shall bet any money or  
581 thing of any value with a minor, or allow a minor to bet at any  
582 game or gaming-table exhibited by him, or in which he is  
583 interested or in any manner concerned, on conviction thereof,  
584 shall be fined not less than Three Hundred Dollars (\$300.00) and  
585 imprisoned not less than three (3) months.

586 This section shall apply to minors under the age of eighteen  
587 (18) as it might apply to the operation of any game or lottery  
588 authorized by Sections 1 through 3 of House Bill No. 432, 2005  
589 Regular Session.

590           **SECTION 12.** Section 97-33-23, Mississippi Code of 1972, is  
591 amended as follows:

592           97-33-23. Any person of full age who shall bet any money or  
593 thing of value with a minor, knowing such minor to be under the  
594 age of twenty-one (21) years, or allowing any such minor to bet at  
595 any game or games, or at any gaming-table exhibited by him, or in  
596 which he is interested or in any manner concerned, on conviction  
597 thereof, shall be punished by imprisonment in the Penitentiary not  
598 exceeding two (2) years.

599           This section shall apply to minors under the age of eighteen  
600 (18) as it might apply to the operation of any game or lottery  
601 authorized by Sections 1 through 3 of House Bill No. 432, 2005  
602 Regular Session.

603           **SECTION 13.** Section 97-33-31, Mississippi Code of 1972, is  
604 amended as follows:

605           97-33-31. If any person, in order to raise money for himself  
606 or another, or for any purpose whatever, shall publicly or  
607 privately put up a lottery to be drawn or adventured for, he  
608 shall, on conviction, be imprisoned in the Penitentiary not  
609 exceeding five (5) years.

610           This section shall not apply to the operation of any game or  
611 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
612 2005 Regular Session.

613           **SECTION 14.** Section 97-33-33, Mississippi Code of 1972, is  
614 amended as follows:

615           97-33-33. If any person shall in any way advertise any  
616 lottery whatever, no matter where located, or shall knowingly have  
617 in his possession any posters or other lottery advertisements of  
618 any kind save a regularly issued newspaper containing such an  
619 advertisement without intent to circulate the same as an  
620 advertisement he shall, on conviction, be fined not less than  
621 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars

622 (\$100.00), or be imprisoned in the county jail not exceeding three  
623 (3) months, or both.

624 This section shall not apply to the operation of any game or  
625 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
626 2005 Regular Session.

627 **SECTION 15.** Section 97-33-35, Mississippi Code of 1972, is  
628 amended as follows:

629 97-33-35. If any newspaper published or circulated in this  
630 state shall contain an advertisement of any lottery whatever, or  
631 any matter intended to advertise a lottery, no matter where  
632 located, the editor or editors, publisher or publishers, and the  
633 owner or owners thereof permitting the same, shall be guilty of a  
634 misdemeanor, and, on conviction, shall be fined not less than One  
635 Hundred Dollars (\$100.00) nor more than One Thousand Dollars  
636 (\$1,000.00), and be imprisoned in the county jail not less than  
637 ten (10) days nor more than three (3) months, for each offense.  
638 The issuance of each separate daily or weekly edition of the  
639 newspaper that shall contain such an advertisement shall be  
640 considered a separate offense.

641 This section shall not apply to the operation of any game or  
642 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
643 2005 Regular Session.

644 **SECTION 16.** Section 97-33-37, Mississippi Code of 1972, is  
645 amended as follows:

646 97-33-37. If any newsdealer or other person shall, directly  
647 or indirectly, sell or offer for sale any newspaper or other  
648 publication containing a lottery advertisement, he shall be guilty  
649 of a misdemeanor, and upon conviction, shall be fined not less  
650 than Ten Dollars (\$10.00) or imprisoned not less than ten (10)  
651 days, or both.

652 This section shall not apply to the operation of any game or  
653 lottery authorized by Sections 1 through 3 of House Bill No. 654,  
654 2005 Regular Session.

655           **SECTION 17.** Section 97-33-39, Mississippi Code of 1972, is  
656 amended as follows:

657           97-33-39. If any person shall sell, or offer or expose for  
658 sale, any lottery ticket, whether the lottery be in or out of this  
659 state, or for or in any other state, territory, district, or  
660 country, he shall, on conviction, be fined not less than  
661 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars  
662 (\$100.00), or imprisoned in the county jail not less than ten (10)  
663 days nor more than sixty (60) days, or both.

664           This section shall not apply to the operation of any game or  
665 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
666 2005 Regular Session.

667           **SECTION 18.** Section 97-33-41, Mississippi Code of 1972, is  
668 amended as follows:

669           97-33-41. If any person shall buy in this state any lottery  
670 ticket, whether the lottery be in or out of this state, or of or  
671 in any other state, territory, district, or country, he shall, on  
672 conviction, be fined not less than Five Dollars (\$5.00) nor more  
673 than Twenty-five Dollars (\$25.00), or be imprisoned in the county  
674 jail not exceeding ten (10) days, or both.

675           This section shall not apply to the operation of any game or  
676 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
677 2005 Regular Session.

678           **SECTION 19.** Section 97-33-43, Mississippi Code of 1972, is  
679 amended as follows:

680           97-33-43. If any railroad company shall suffer or permit the  
681 sale of a lottery ticket of any kind on its cars, or at its depots  
682 or depot grounds, or by its employees, no matter where the lottery  
683 is located, it shall be guilty of a misdemeanor, and, on  
684 conviction, shall be fined not less than Twenty Dollars (\$20.00)  
685 nor more than One Hundred Dollars (\$100.00) for every such ticket  
686 so sold.

687       This section shall not apply to the operation of any game or  
688 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
689 2005 Regular Session.

690       **SECTION 20.** Section 97-33-45, Mississippi Code of 1972, is  
691 amended as follows:

692       97-33-45. If the owner or owners of any steamboat shall  
693 suffer or permit the sale of a lottery ticket of any kind on his  
694 or their boat, or by his or their employees, no matter where the  
695 lottery is located, he or they shall be guilty of a misdemeanor,  
696 and shall, on conviction, be punished as prescribed in Section  
697 97-33-43.

698       This section shall not apply to the operation of any game or  
699 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
700 2005 Regular Session.

701       **SECTION 21.** Section 97-33-47, Mississippi Code of 1972, is  
702 amended as follows:

703       97-33-47. If any person shall act as agent for any lottery  
704 or lottery company, no matter where domiciled or located, or if he  
705 shall assume to so act as agent, or if he receive any money or  
706 other thing for any such lottery or lottery company, or deliver to  
707 any person any ticket or tickets, prize or prizes, or other thing  
708 from such lottery or lottery company, he shall, on conviction, be  
709 fined not less than One Hundred Dollars (\$100.00), nor more than  
710 Five Hundred Dollars (\$500.00), and be imprisoned in the county  
711 jail not less than three (3) months nor more than six (6) months.

712       This section shall not apply to the operation of any game or  
713 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
714 2005 Regular Session.

715       **SECTION 22.** Section 97-33-49, Mississippi Code of 1972, is  
716 amended as follows:

717       97-33-49. Except as otherwise provided in Section 97-33-51,  
718 if any person, in order to raise money for himself or another,  
719 shall publicly or privately put up or in any way offer any prize

720 or thing to be raffled or played for, he shall, on conviction, be  
721 fined not more than Twenty Dollars (\$20.00), or be imprisoned not  
722 more than one (1) month in the county jail.

723 This section shall not apply to the operation of any game or  
724 lottery authorized by Sections 1 through 3 of House Bill No. 432,  
725 2005 Regular Session.

726 **SECTION 23.** Section 27-65-111, Mississippi Code of 1972, is  
727 amended as follows:

728 27-65-111. The exemptions from the provisions of this  
729 chapter which are not industrial, agricultural or governmental, or  
730 which do not relate to utilities or taxes, or which are not  
731 properly classified as one of the exemption classifications of  
732 this chapter, shall be confined to persons or property exempted by  
733 this section or by the Constitution of the United States or the  
734 State of Mississippi. No exemptions as now provided by any other  
735 section, except the classified exemption sections of this chapter  
736 set forth herein, shall be valid as against the tax herein levied.  
737 Any subsequent exemption from the tax levied hereunder, except as  
738 indicated above, shall be provided by amendments to this section.

739 No exemption provided in this section shall apply to taxes  
740 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

741 The tax levied by this chapter shall not apply to the  
742 following:

743 (a) Sales of tangible personal property and services to  
744 hospitals or infirmaries owned and operated by a corporation or  
745 association in which no part of the net earnings inures to the  
746 benefit of any private shareholder, group or individual, and which  
747 are subject to and governed by Sections 41-7-123 through 41-7-127.

748 Only sales of tangible personal property or services which  
749 are ordinary and necessary to the operation of such hospitals and  
750 infirmaries are exempted from tax.

751 (b) Sales of daily or weekly newspapers, and  
752 periodicals or publications of scientific, literary or educational

753 organizations exempt from federal income taxation under Section  
754 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
755 March 31, 1975, and subscription sales of all magazines.

756 (c) Sales of coffins, caskets and other materials used  
757 in the preparation of human bodies for burial.

758 (d) Sales of tangible personal property for immediate  
759 export to a foreign country.

760 (e) Sales of tangible personal property to an  
761 orphanage, old men's or ladies' home, supported wholly or in part  
762 by a religious denomination, fraternal nonprofit organization or  
763 other nonprofit organization.

764 (f) Sales of tangible personal property, labor or  
765 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,  
766 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a  
767 corporation or association in which no part of the net earnings  
768 inures to the benefit of any private shareholder, group or  
769 individual.

770 (g) Sales to elementary and secondary grade schools,  
771 junior and senior colleges owned and operated by a corporation or  
772 association in which no part of the net earnings inures to the  
773 benefit of any private shareholder, group or individual, and which  
774 are exempt from state income taxation, provided that this  
775 exemption does not apply to sales of property or services which  
776 are not to be used in the ordinary operation of the school, or  
777 which are to be resold to the students or the public.

778 (h) The gross proceeds of retail sales and the use or  
779 consumption in this state of drugs and medicines:

780 (i) Prescribed for the treatment of a human being  
781 by a person authorized to prescribe the medicines, and dispensed  
782 or prescription filled by a registered pharmacist in accordance  
783 with law; or



784 (ii) Furnished by a licensed physician, surgeon,  
785 dentist or podiatrist to his own patient for treatment of the  
786 patient; or

787 (iii) Furnished by a hospital for treatment of any  
788 person pursuant to the order of a licensed physician, surgeon,  
789 dentist or podiatrist; or

790 (iv) Sold to a licensed physician, surgeon,  
791 podiatrist, dentist or hospital for the treatment of a human  
792 being; or

793 (v) Sold to this state or any political  
794 subdivision or municipal corporation thereof, for use in the  
795 treatment of a human being or furnished for the treatment of a  
796 human being by a medical facility or clinic maintained by this  
797 state or any political subdivision or municipal corporation  
798 thereof.

799 "Medicines," as used in this paragraph (h), shall mean and  
800 include any substance or preparation intended for use by external  
801 or internal application to the human body in the diagnosis, cure,  
802 mitigation, treatment or prevention of disease and which is  
803 commonly recognized as a substance or preparation intended for  
804 such use; provided that "medicines" do not include any auditory,  
805 prosthetic, ophthalmic or ocular device or appliance, any dentures  
806 or parts thereof or any artificial limbs or their replacement  
807 parts, articles which are in the nature of splints, bandages,  
808 pads, compresses, supports, dressings, instruments, apparatus,  
809 contrivances, appliances, devices or other mechanical, electronic,  
810 optical or physical equipment or article or the component parts  
811 and accessories thereof, or any alcoholic beverage or any other  
812 drug or medicine not commonly referred to as a prescription drug.

813 Notwithstanding the preceding sentence of this paragraph (h),  
814 "medicines" as used in this paragraph (h), shall mean and include  
815 sutures, whether or not permanently implanted, bone screws, bone  
816 pins, pacemakers and other articles permanently implanted in the

817 human body to assist the functioning of any natural organ, artery,  
818 vein or limb and which remain or dissolve in the body.

819 "Hospital," as used in this paragraph (h), shall have the  
820 meaning ascribed to it in Section 41-9-3, Mississippi Code of  
821 1972.

822 Insulin furnished by a registered pharmacist to a person for  
823 treatment of diabetes as directed by a physician shall be deemed  
824 to be dispensed on prescription within the meaning of this  
825 paragraph (h).

826 (i) Retail sales of automobiles, trucks and  
827 truck-tractors if exported from this state within forty-eight (48)  
828 hours and registered and first used in another state.

829 (j) Sales of tangible personal property or services to  
830 the Salvation Army and the Muscular Dystrophy Association, Inc.

831 (k) From July 1, 1985, through December 31, 1992,  
832 retail sales of "alcohol blended fuel" as such term is defined in  
833 Section 75-55-5. The gasoline-alcohol blend or the straight  
834 alcohol eligible for this exemption shall not contain alcohol  
835 distilled outside the State of Mississippi.

836 (l) Sales of tangible personal property or services to  
837 the Institute for Technology Development.

838 (m) The gross proceeds of retail sales of food and  
839 drink for human consumption made through vending machines serviced  
840 by full line vendors from and not connected with other taxable  
841 businesses.

842 (n) The gross proceeds of sales of motor fuel.

843 (o) Retail sales of food for human consumption  
844 purchased with food stamps issued by the United States Department  
845 of Agriculture, or other federal agency, from and after October 1,  
846 1987, or from and after the expiration of any waiver granted  
847 pursuant to federal law, the effect of which waiver is to permit  
848 the collection by the state of tax on such retail sales of food  
849 for human consumption purchased with food stamps.

850 (p) Sales of cookies for human consumption by the Girl  
851 Scouts of America no part of the net earnings from which sales  
852 inures to the benefit of any private group or individual.

853 (q) Gifts or sales of tangible personal property or  
854 services to public or private nonprofit museums of art.

855 (r) Sales of tangible personal property or services to  
856 alumni associations of state-supported colleges or universities.

857 (s) Sales of tangible personal property or services to  
858 chapters of the National Association of Junior Auxiliaries, Inc.

859 (t) Sales of tangible personal property or services to  
860 domestic violence shelters which qualify for state funding under  
861 Sections 93-21-101 through 93-21-113.

862 (u) Sales of tangible personal property or services to  
863 the National Multiple Sclerosis Society, Mississippi Chapter.

864 (v) Retail sales of food for human consumption  
865 purchased with food instruments issued the Mississippi Band of  
866 Choctaw Indians under the Women, Infants and Children Program  
867 (WIC) funded by the United States Department of Agriculture.

868 (w) Sales of tangible personal property or services to  
869 a private company, as defined in Section 57-61-5, which is making  
870 such purchases with proceeds of bonds issued under Section 57-61-1  
871 et seq., the Mississippi Business Investment Act.

872 (x) The gross collections from the operation of  
873 self-service, coin-operated car washing equipment and sales of the  
874 service of washing motor vehicles with portable high-pressure  
875 washing equipment on the premises of the customer.

876 (y) Sales of tangible personal property or services to  
877 the Mississippi Technology Alliance.

878 (z) Sales of lottery tickets by a retailer as  
879 authorized by Sections 1 through 3 of House Bill No. 432, 2005  
880 Regular Session.

881 **SECTION 24.** The Attorney General of the State of Mississippi  
882 shall submit Section 3 of this act, immediately upon approval by

883 the Governor, or upon approval by the Legislature subsequent to a  
884 veto, to the Attorney General of the United States or to the  
885 United States District Court for the District of Columbia in  
886 accordance with the provisions of the Voting Rights Act of 1965,  
887 as amended and extended.

888         **SECTION 25.** Sections 1, 2, and 4 through 23 of this act  
889 shall take effect and be in force from and after July 1, 2005.  
890 Section 3 of this act shall take effect and be in force from and  
891 after the date it is effectuated under Section 5 of the Voting  
892 Rights Act of 1965, as amended and extended.