

By: Representative Guice

To: Gaming

HOUSE BILL NO. 1268

1 AN ACT TO AMEND SECTION 27-109-1, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT AFTER JULY 1, 2005, A GAMING LICENSEE MAY
3 CONSTRUCT PERMANENT STRUCTURES UPON WHICH TO PLACE THE VESSEL OR
4 CRUISE VESSEL WHERE THE LEGAL GAMING IS BEING CONDUCTED; TO
5 PROVIDE THAT CERTAIN GAMING LICENSEES MAY CUT OR OTHERWISE
6 EXCAVATE INTO AN AREA WITHIN ONE THOUSAND FEET OF THE LICENSED
7 PREMISES, PROVIDED SUCH CUTTING OR EXCAVATION DOES NOT CROSS ANY
8 EXISTING HIGHWAY, STREET OR OTHER ROADWAY, IN ORDER TO COVER THE
9 AREA WITH WATER FOR THE PURPOSE OF PLACING A CRUISE VESSEL UPON
10 SUCH WATER; TO PROVIDE THAT IF THE AREA CUT OR OTHERWISE EXCAVATED
11 INTO IS NOT TIDELANDS, THE GAMING LICENSEE SHALL PAY THE STATE AN
12 AMOUNT EQUAL TO A LEASE RENTAL PAYMENT ON A COMPARABLE AREA THAT
13 IS A TIDELANDS; TO SPECIFY THAT THESE PROVISIONS SHALL NOT
14 AUTHORIZE ANY FORM OF SHORE-BASED GAMING; TO AMEND SECTION
15 29-15-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
16 RELATED PURPOSES.

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

18 **SECTION 1.** Section 27-109-1, Mississippi Code of 1972, is
19 amended as follows:

20 27-109-1. (1) The provisions of this chapter shall be
21 administered by the State Tax Commission, which shall administer
22 them for the protection of the public and in the public interest
23 in accordance with the policy of this state.

24 (2) (a) The operator of any cruise vessel or vessel
25 operating within the territorial jurisdiction of the State of
26 Mississippi shall be required to apply for and obtain a privilege
27 license from the State Tax Commission.

28 (b) For purposes of this chapter, the operator of any
29 cruise vessel or vessel shall be identified as any owner or lessee
30 which is vested with the authority and responsibility to manage
31 daily operations of any such cruise vessel or vessel.

32 (c) (i) For purposes of this chapter, the term "cruise
33 vessel" shall mean a vessel which complies with all U.S. Coast
34 Guard regulations, having a minimum overall length of one hundred

35 fifty (150) feet and a minimum draft of six (6) feet and which is
36 certified to carry at least two hundred (200) passengers; and the
37 term "vessel" shall mean a vessel having a minimum overall length
38 of one hundred fifty (150) feet. The term "vessel" shall also
39 mean a "cruise vessel" as referred to in Section 27-109-11. For
40 the purposes of a "vessel" as that term is defined in this
41 section, "navigable waters" means any rivers, creeks, bayous or
42 other bodies of water within any county in this state bordering on
43 the Mississippi River that are used or susceptible of being used
44 as an artery of commerce and which either in their natural or
45 improved condition are used or suitable for use as an artery of
46 commerce or are used for the docking or mooring of a vessel,
47 notwithstanding interruptions between the navigable parts of such
48 rivers, creeks, bayous or other bodies of water by falls,
49 shallows, or rapids compelling land carriage.

50 (ii) For purposes of this subparagraph, the
51 definitions of the words "person" and "gaming license" shall have
52 the meanings ascribed to those words and terms in Section 75-76-5.
53 After July 1, 2005, any person possessing a valid gaming license
54 to conduct legal gaming on a cruise vessel or vessel may construct
55 permanent structures upon which to place the vessel or cruise
56 vessel wherein the licensee offers legal gaming. Such permanent
57 structures shall be included within the meanings of the terms
58 "cruise vessel" and "vessel" under subparagraph (i). In the event
59 that such a gaming licensee constructs permanent structures under
60 this subparagraph, the requirement that a cruise vessel have a
61 minimum draft of six (6) feet shall not apply. In addition, any
62 person possessing a valid gaming license to conduct legal gaming
63 on a cruise vessel whenever such vessel is in the waters within
64 the State of Mississippi, which lie adjacent to the State of
65 Mississippi south of the three (3) most southern counties in the
66 State of Mississippi, and in which the registered voters of the
67 county in which the port is located have not voted to prohibit

68 such betting, gaming or wagering on cruise vessels as provided in
69 Section 19-3-79, may cut or otherwise excavate into an area within
70 one thousand (1,000) feet of such gaming licensee's premises
71 (provided the cutting or excavation does not cross any existing
72 highway, street or other roadway) in order to cover the area with
73 water for the purpose of placing the cruise vessel upon such
74 water. If the area cut or otherwise excavated into is not
75 tidelands for the purposes of Section 29-15-1 et seq., the gaming
76 licensee shall pay the State of Mississippi an amount equal to the
77 lease rental payment on a comparable area that is tidelands. Such
78 payments shall be deposited into the Public Trust Tidelands Fund
79 created under Section 29-15-9. This subparagraph shall not
80 authorize any form of shore-based gaming or the conducting of
81 legal gaming on a vessel or cruise vessel which is not on or above
82 water, as contemplated under subparagraph (i).

83 (3) The commission and its agents may:

84 (a) Inspect and examine all premises on the cruise
85 vessel.

86 (b) Inspect all equipment and supplies in, upon or
87 about such premises.

88 (c) Summarily seize and remove from such premises and
89 impound any equipment or supplies for the purpose of examination
90 and inspection.

91 (d) Demand access to and inspect, examine, photocopy
92 and audit all papers, books and records of applicants and
93 licensees, on their premises, or elsewhere as practicable, and in
94 the presence of the licensee or his agent, respecting all matters
95 affecting the enforcement of the policy or any of the provisions
96 of this chapter.

97 (4) For the purpose of conducting audits after the cessation
98 of operations by a licensee, the former licensee shall furnish,
99 upon demand of an agent of the commission, books, papers and
100 records as necessary to conduct the audits. The former licensee

101 shall maintain all books, papers and records necessary for audits
102 for a period of one (1) year after the date of the surrender or
103 revocation of his privilege license. If the former licensee seeks
104 judicial review of a deficiency determination or files a petition
105 for a redetermination, he must maintain all books, papers and
106 records until a final order is entered on the determination.

107 (5) The commission may investigate, for the purpose of
108 prosecution, any suspected criminal violation of the provisions of
109 this chapter. For the purpose of the administration and
110 enforcement of this chapter, the commission and the executive,
111 supervisory and investigative personnel of the commission have the
112 powers of a peace officer of this state.

113 (6) The commission, or any of its members, has full power
114 and authority to issue subpoenas and compel the attendance of
115 witnesses at any place within this state, to administer oaths and
116 to require testimony under oath. Any process or notice may be
117 served in the manner provided for service of process and notices
118 in civil actions. The commission may pay such transportation and
119 other expense of witnesses as it may deem reasonable and proper.
120 Any person making false oath in any matter before the commission
121 is guilty of perjury. The commission, or any member thereof, may
122 appoint hearing examiners who may administer oaths and receive
123 evidence and testimony under oath.

124 **SECTION 2.** Section 29-15-9, Mississippi Code of 1972, is
125 amended as follows:

126 29-15-9. (1) There is created in the State Treasury a
127 special fund to be known as the "Public Trust Tidelands Fund."
128 The fund shall be administered by the Secretary of State as
129 trustee.

130 (2) Any funds derived from lease rentals of tidelands and
131 submerged lands, except those funds derived from mineral leases,
132 or funds previously specifically designated to be applied to other
133 agencies, shall be transferred to the special fund. However,

134 funds derived from lease rentals may be used to cover the
135 administrative cost incurred by the Secretary of State. Any
136 remaining funds derived from lease rentals shall be disbursed pro
137 rata to the local taxing authorities for the replacement of lost
138 ad valorem taxes, if any. Funds derived from payments made under
139 Section 27-109-1(2)(c)(ii) shall be transferred to the special
140 fund. Any remaining funds shall be disbursed to the commission
141 for new and extra programs of tidelands management, such as
142 conservation, reclamation, preservation, acquisition, education or
143 the enhancement of public access to the public trust tidelands or
144 public improvement projects as they relate to those lands.

145 (3) Any funds that are appropriated as separate line items
146 in an appropriation bill for tideland programs or projects
147 authorized under this section for political subdivisions or other
148 agencies shall be disbursed as provided in this subsection.

149 (a) The Department of Marine Resources shall make
150 progress payments in installments based on the work completed and
151 material used in the performance of a tidelands project only after
152 receiving written verification from the political subdivision or
153 agency. The political subdivision or agency shall submit
154 verification of the work completed or materials in such detail and
155 form that the department may require.

156 (b) The Department of Marine Resources shall make funds
157 available for the purpose of using such funds as a match or
158 leverage for federal or other funds that are available for the
159 designated tidelands project.

160 **SECTION 3.** This act shall take effect and be in force from
161 and after July 1, 2005.