

By: Representatives Moak, Espy

To: Gaming

HOUSE BILL NO. 1448

1 AN ACT TO AMEND SECTION 75-76-33, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE MISSISSIPPI GAMING COMMISSION TO ADOPT
3 REGULATIONS PERTAINING TO CERTAIN GAMING ACTIVITIES THAT ARE NOT
4 PROHIBITED UNDER STATE OR FEDERAL LAW; TO AMEND SECTION 75-76-33,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 75-76-33, Mississippi Code of 1972, is
9 amended as follows:

10 75-76-33. (1) The commission shall, from time to time,
11 adopt, amend or repeal such regulations, consistent with the
12 policy, objects and purposes of this chapter, as it may deem
13 necessary or desirable in the public interest in carrying out the
14 policy and provisions of this chapter.

15 (2) These regulations shall, without limiting the general
16 powers herein conferred, include the following:

17 (a) Prescribing the method and form of application
18 which any applicant for a license or for a manufacturer's,
19 seller's or distributor's license must follow and complete before
20 consideration of his application by the executive director or the
21 commission.

22 (b) Prescribing the information to be furnished by any
23 applicant or licensee concerning his antecedents, habits,
24 character, associates, criminal record, business activities and
25 financial affairs, past or present.

26 (c) Prescribing the information to be furnished by a
27 licensee relating to his employees.

28 (d) Requiring fingerprinting of an applicant or
29 licensee, and gaming employees of a licensee, or other methods of

30 identification and the forwarding of all fingerprints taken
31 pursuant to regulation of the Federal Bureau of Investigation.

32 (e) Prescribing the manner and procedure of all hearings
33 conducted by the commission or any hearing examiner of the
34 commission, including special rules of evidence applicable thereto
35 and notices thereof.

36 (f) Requiring any applicant to pay all or any part of
37 the fees and costs of investigation of such applicant as may be
38 determined by the commission, except that no applicant for an
39 initial license shall be required to pay any part of the fees or
40 costs of the investigation of the applicant with regard to the
41 initial license.

42 (g) Prescribing the manner and method of collection and
43 payment of fees and issuance of licenses.

44 (h) Prescribing under what conditions a licensee may be
45 deemed subject to revocation or suspension of his license.

46 (i) Requiring any applicant or licensee to waive any
47 privilege with respect to any testimony at any hearing or meeting
48 of the commission, except any privilege afforded by the
49 Constitution of the United States or this state.

50 (j) Defining and limiting the area, games and devices
51 permitted, and the method of operation of such games and devices,
52 for the purposes of this chapter.

53 (k) Prescribing under what conditions the nonpayment of
54 a gambling debt by a licensee shall be deemed grounds for
55 revocation or suspension of his license.

56 (l) Governing the use and approval of gambling devices
57 and equipment.

58 (m) Prescribing the qualifications of, and the
59 conditions under which, attorneys, accountants and others are
60 permitted to practice before the commission.

61 (n) Restricting access to confidential information
62 obtained under this chapter and ensuring that the confidentiality
63 of such information is maintained and protected.

64 (o) Prescribing the manner and procedure by which the
65 executive director on behalf of the commission shall notify a
66 county or a municipality wherein an applicant for a license
67 desires to locate.

68 (p) Prescribing the manner and procedure for an
69 objection to be filed with the commission and the executive
70 director by a county or municipality wherein an applicant for a
71 license desires to locate.

72 (3) Notwithstanding any other provision of law, each
73 licensee shall be required to comply with the following
74 regulations:

75 (a) No wagering shall be allowed on the outcome of any
76 athletic event, nor on any matter to be determined during an
77 athletic event, nor on the outcome of any event which does not
78 take place on the premises.

79 (b) No wager may be placed by, or on behalf of, any
80 individual or entity or group, not present on a licensed vessel or
81 cruise vessel.

82 (4) (a) The commission and the Chairman of the State Tax
83 Commission also shall adopt regulations pertaining to those
84 activities defined as "race book" under Section 75-76-5(cc) and
85 "sports pool" as defined under Section 75-76-5(gg), and which are
86 expressly authorized under Section 75-76-89(2), notwithstanding
87 any interpretations to the contrary by the commission before July
88 1, 2005, any court decision decided pursuant to such
89 interpretations before July 1, 2005, or the provisions of
90 subsection (3)(a) of this section, provided such interpretations,
91 decisions or provisions are not prohibited by the Professional
92 Amateur Sports Protection Act, 28 USCS Section 3701 et seq.,
93 unless such federal act is amended subsequent to July 1, 2005, to

94 exempt from its prohibitions the activities defined under Section
95 75-76-5(gg), that are otherwise authorized under this section.

96 (b) It is the intent of paragraph (a) of this
97 subsection to authorize sports pool gaming, as defined under
98 Section 75-76-5(gg), on the premises of any establishment in this
99 state where gaming operations are lawfully permitted and in
100 accordance with all applicable provisions of this chapter and
101 rules and regulations adopted by the Mississippi Gaming Commission
102 and the Chairman of the State Tax Commission beginning immediately
103 following the date that the Professional Amateur Sports Protection
104 Act referred to in paragraph (a) of this subsection is amended to
105 allow the State of Mississippi to lawfully permit such gaming
106 activities.

107 **SECTION 2.** Section 75-76-5, Mississippi Code of 1972, is
108 amended as follows:

109 75-76-5. As used in this chapter, unless the context
110 requires otherwise:

111 (a) "Applicant" means any person who has applied for or
112 is about to apply for a state gaming license, registration or
113 finding of suitability under the provisions of this chapter or
114 approval of any act or transaction for which approval is required
115 or permitted under the provisions of this chapter.

116 (b) "Application" means a request for the issuance of a
117 state gaming license, registration or finding of suitability under
118 the provisions of this chapter or for approval of any act or
119 transaction for which approval is required or permitted under the
120 provisions of this chapter but does not include any supplemental
121 forms or information that may be required with the application.

122 (c) "Associated equipment" means any equipment or
123 mechanical, electromechanical or electronic contrivance, component
124 or machine used remotely or directly in connection with gaming or
125 with any game, race book or sports pool that would not otherwise
126 be classified as a gaming device, including dice, playing cards,

127 links which connect to progressive slot machines, equipment which
128 affects the proper reporting of gross revenue, computerized
129 systems of betting at a race book or sports pool, computerized
130 systems for monitoring slot machines, and devices for weighing or
131 counting money.

132 (d) "Chairman," through September 30, 1993, means the
133 Chairman of the State Tax Commission, and thereafter means the
134 Chairman of the Mississippi Gaming Commission.

135 (e) "Commission" or "Mississippi Gaming Commission,"
136 through September 30, 1993, means the State Tax Commission, and
137 thereafter means the Mississippi Gaming Commission.

138 (f) "Commission member," through September 30, 1993,
139 means a member of the State Tax Commission, and thereafter means a
140 member of the Mississippi Gaming Commission.

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

145 (h) "Enforcement division" means a particular division
146 supervised by the executive director that provides enforcement
147 functions.

148 (i) "Establishment" means any premises wherein or
149 whereon any gaming is done.

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

154 (k) Except as otherwise provided by law, "game," or
155 "gambling game" means any banking or percentage game played with
156 cards, with dice or with any mechanical, electromechanical or
157 electronic device or machine for money, property, checks, credit
158 or any representative of value, including, without limiting the
159 generality of the foregoing, faro, monte, roulette, keno, fan-tan,

160 twenty-one, blackjack, seven-and-a-half, big injun, klondike,
161 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de
162 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
163 or any other game or device approved by the commission. However,
164 "game" or "gambling game" shall not include bingo games or raffles
165 which are held pursuant to the provisions of Section 97-33-51.

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

169 (l) "Gaming" or "gambling" means to deal, operate,
170 carry on, conduct, maintain or expose for play any game as defined
171 in this chapter.

172 (m) "Gaming device" means any mechanical,
173 electromechanical or electronic contrivance, component or machine
174 used in connection with gaming or any game which affects the
175 result of a wager by determining win or loss. The term includes a
176 system for processing information which can alter the normal
177 criteria of random selection, which affects the operation of any
178 game, or which determines the outcome of a game. The term does
179 not include a system or device which affects a game solely by
180 stopping its operation so that the outcome remains undetermined,
181 and does not include any antique coin machine as defined in
182 Section 27-27-12.

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

- 186 (i) Boxmen;
187 (ii) Cashiers;
188 (iii) Change personnel;
189 (iv) Counting room personnel;
190 (v) Dealers;
191 (vi) Floormen;

192 (vii) Hosts or other persons empowered to extend
193 credit or complimentary services;
194 (viii) Keno runners;
195 (ix) Keno writers;
196 (x) Machine mechanics;
197 (xi) Security personnel;
198 (xii) Shift or pit bosses;
199 (xiii) Shills;
200 (xiv) Supervisors or managers; and
201 (xv) Ticket writers.

202 The term "gaming employee" also includes employees of
203 manufacturers or distributors of gaming equipment within this
204 state whose duties are directly involved with the manufacture,
205 repair or distribution of gaming equipment.

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

209 (o) "Gaming license" means any license issued by the
210 state which authorizes the person named therein to engage in
211 gaming.

212 (p) "Gross revenue" means the total of all of the
213 following, less the total of all cash paid out as losses to
214 patrons and those amounts paid to purchase annuities to fund
215 losses paid to patrons over several years by independent financial
216 institutions:

217 (i) Cash received as winnings;
218 (ii) Cash received in payment for credit extended
219 by a licensee to a patron for purposes of gaming; and
220 (iii) Compensation received for conducting any
221 game in which the licensee is not party to a wager.

222 For the purposes of this definition, cash or the value of
223 noncash prizes awarded to patrons in a contest or tournament are
224 not losses.

225 The term does not include:

226 (i) Counterfeit money or tokens;

227 (ii) Coins of other countries which are received
228 in gaming devices;

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

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

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

236 (r) "Investigation division" means a particular
237 division supervised by the executive director that provides
238 investigative functions.

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

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

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

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

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

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

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

254 (z) "Party" means the Mississippi Gaming Commission and
255 any licensee or other person appearing of record in any proceeding
256 before the commission; or the Mississippi Gaming Commission and
257 any licensee or other person appearing of record in any proceeding

258 for judicial review of any action, decision or order of the
259 commission.

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

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

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

269 (dd) "Regulation" means a rule, standard, directive or
270 statement of general applicability which effectuates law or policy
271 or which describes the procedure or requirements for practicing
272 before the commission. The term includes a proposed regulation
273 and the amendment or repeal of a prior regulation but does not
274 include:

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

278 (ii) A declaratory ruling;

279 (iii) An interagency memorandum;

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

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

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

286 (ff) "Slot machine" means any mechanical, electrical or
287 other device, contrivance or machine which, upon insertion of a
288 coin, token or similar object, or upon payment of any
289 consideration, is available to play or operate, the play or
290 operation of which, whether by reason of the skill of the operator

291 or application of the element of chance, or both, may deliver or
292 entitle the person playing or operating the machine to receive
293 cash, premiums, merchandise, tokens or anything of value, whether
294 the payoff is made automatically from the machine or in any other
295 manner. The term does not include any antique coin machine as
296 defined in Section 27-27-12.

297 (gg) "Sports pool" means the business of accepting
298 wagers on sporting events, except for athletic events (unless
299 otherwise provided for in Section 75-76-33(4)), by any system or
300 method of wagering other than the system known as the "pari-mutuel
301 method of wagering."

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

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

307 (jj) "Work permit" means any card, certificate or
308 permit issued by the commission, whether denominated as a work
309 permit, registration card or otherwise, authorizing the employment
310 of the holder as a gaming employee. A document issued by any
311 governmental authority for any employment other than gaming is not
312 a valid work permit for the purposes of this chapter.

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

316 (ll) "Cheat" means to alter the selection of criteria
317 that determine:

318 (i) The rules of a game; or

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

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