

By: Representative Moak

To: Gaming; Sel Cmte on
Hurricane Recovery

HOUSE BILL NO. 45

1 AN ACT TO AMEND SECTIONS 87-1-5, 95-3-25, 97-33-1, 97-33-7,
2 97-33-17, 97-33-25 AND 97-33-27, MISSISSIPPI CODE OF 1972, TO
3 AUTHORIZE LEGAL GAMING IN A STRUCTURE ON SHORE IN ANY OF THE THREE
4 MOST SOUTHERN COUNTIES IN THE STATE OF MISSISSIPPI IN WHICH
5 BETTING, GAMING OR WAGERING ON CRUISE VESSELS HAS NOT BEEN
6 PROHIBITED AS PROVIDED IN SECTION 19-3-79, IF THE STRUCTURE IS
7 OWNED BY A PERSON POSSESSING A GAMING LICENSE TO CONDUCT LEGAL
8 GAMING ON A CRUISE VESSEL AND NO PART OF THE STRUCTURE IN WHICH
9 LICENSED GAMING ACTIVITIES ARE CONDUCTED IS LOCATED MORE THAN 800
10 FEET FROM THE MEAN HIGH-WATER LINE OF THE WATERS WITHIN THE STATE
11 OF MISSISSIPPI WHICH LIE ADJACENT TO THE STATE OF MISSISSIPPI
12 SOUTH OF SUCH COUNTIES; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 87-1-5, Mississippi Code of 1972, is
15 amended as follows:

16 87-1-5. If any person, by playing at any game whatever, or
17 by betting on the sides or hands of such as do play at any game,
18 or by betting on any horse race or cockfight, or at any other
19 sport or pastime, or by any wager whatever, shall lose any money,
20 property, or other valuable thing, real or personal, and shall pay
21 or deliver the same or any part thereof, the person so losing and
22 paying or delivering the same, or his wife or children, may sue
23 for and recover such money, property, or other valuable thing so
24 lost and paid or delivered, or any part thereof, from the person
25 knowingly receiving the same, with costs. However, this section
26 shall not apply to betting, gaming or wagering:

27 (a) On a cruise vessel as defined in Section 27-109-1
28 whenever such vessel is in the waters within the State of
29 Mississippi, which lie adjacent to the State of Mississippi south
30 of the three (3) most southern counties in the State of
31 Mississippi, including the Mississippi Sound, St. Louis Bay,
32 Biloxi Bay and Pascagoula Bay;

33 (b) In a structure on shore in any of the three (3)
34 most southern counties in the State of Mississippi in which the
35 registered voters of the county have not voted to prohibit such
36 betting, gaming or wagering on cruise vessels as provided in
37 Section 19-3-79, if:

38 (i) The structure is owned by a person possessing
39 a gaming license, as defined in Section 75-76-5, to conduct legal
40 gaming on a cruise vessel under paragraph (a) of this section; and

41 (ii) The part of the structure in which licensed
42 gaming activities are conducted is located entirely in an area
43 which is located no more than eight hundred (800) feet from the
44 mean high-water line (as defined in Section 29-15-1) of the waters
45 within the State of Mississippi, which lie adjacent to the State
46 of Mississippi south of the three (3) most southern counties in
47 the State of Mississippi, including the Mississippi Sound, St.
48 Louis Bay, Biloxi Bay and Pascagoula Bay, or no farther north than
49 the southern boundary of the right-of-way for U.S. Highway 90,
50 whichever is greater;

51 (c) On a vessel as defined in Section 27-109-1 whenever
52 such vessel is on the Mississippi River or navigable waters within
53 any county bordering on the Mississippi River; or

54 (d) That is legal under the laws of the State of
55 Mississippi.

56 **SECTION 2.** Section 95-3-25, Mississippi Code of 1972, is
57 amended as follows:

58 95-3-25. Any building, club, vessel, boat, place or room,
59 wherein is kept or exhibited any game or gaming table, commonly
60 called A.B.C. or E.O. roulette, or rowley-powley, or rouquetnoir,
61 roredon, keno, monte, or any faro-bank, dice, or other game, gaming
62 table, or bank of the same or like kind, or any other kind or
63 description of gambling device under any other name whatever, and
64 any such place where information is furnished for the purpose of
65 making and settling bets or wagers on any horse race, prize fight,

66 or on the outcome of any like event, or where bets or wagers are
67 arranged for, made or settled, shall be deemed to be a common
68 nuisance and may be abated by writ of injunction, issued out of a
69 court of equity upon a bill filed in the name of the state by the
70 Attorney General, or any district or county attorney, whose duty
71 requires him to prosecute criminal cases on behalf of the state in
72 the county where the nuisance is maintained, or by any citizen or
73 citizens of such county, such bill to be filed in the county in
74 which the nuisance exists. And all rules of evidence and of
75 practice and procedure that pertain to courts of equity generally
76 in this state may be invoked and applied in any injunction
77 procedure hereunder. The provisions of this section shall not
78 apply to any form of gaming or gambling that is legal under the
79 laws of the State of Mississippi or to a licensed gaming
80 establishment and shall not apply to any licensed gaming
81 establishment having on its premises any gambling device, machine
82 or equipment that is owned, possessed, controlled, installed,
83 procured, repaired or transported in accordance with subsection
84 (4) of Section 97-33-7.

85 Upon the abatement of any such nuisance, any person found to
86 be the owner, operator or exhibitor of any gambling device
87 described in the first paragraph of this section may be required
88 by the court to enter into a good and sufficient bond in such
89 amount as may be deemed proper by the court, to be conditioned
90 that the obligor therein will not violate any of the laws of
91 Mississippi pertaining to gaming or gambling for a period of not
92 to exceed two (2) years from the date thereof. The failure to
93 make such bond shall be a contempt of court and for such contempt
94 the person or party shall be confined in the county jail until
95 such bond is made, but not longer than two (2) years. Said bond
96 shall be approved by the clerk of the court where the proceedings
97 were had and shall be filed as a part of the record of such case.

98 **SECTION 3.** Section 97-33-1, Mississippi Code of 1972, is
99 amended as follows:

100 97-33-1. If any person shall encourage, promote or play at
101 any game, play or amusement, other than a fight or fighting match
102 between dogs, for money or other valuable thing, or shall wager or
103 bet, promote or encourage the wagering or betting of any money or
104 other valuable things, upon any game, play, amusement, cockfight,
105 Indian ball play or duel, other than a fight or fighting match
106 between dogs, or upon the result of any election, event or
107 contingency whatever, upon conviction thereof, he shall be fined
108 in a sum not more than Five Hundred Dollars (\$500.00); and, unless
109 such fine and costs be immediately paid, shall be imprisoned for
110 any period not more than ninety (90) days. However, this section
111 shall not apply to betting, gaming or wagering:

112 (a) On a cruise vessel as defined in Section 27-109-1
113 whenever such vessel is in the waters within the State of
114 Mississippi, which lie adjacent to the State of Mississippi south
115 of the three (3) most southern counties in the State of
116 Mississippi, including the Mississippi Sound, St. Louis Bay,
117 Biloxi Bay and Pascagoula Bay, and in which the registered voters
118 of the county in which the port is located have not voted to
119 prohibit such betting, gaming or wagering on cruise vessels as
120 provided in Section 19-3-79;

121 (b) In a structure on shore in any of the three (3)
122 most southern counties in the State of Mississippi in which the
123 registered voters of the county have not voted to prohibit such
124 betting, gaming or wagering on cruise vessels as provided in
125 Section 19-3-79, if:

126 (i) The structure is owned by a person possessing
127 a gaming license, as defined in Section 75-76-5, to conduct legal
128 gaming on a cruise vessel under paragraph (a) of this section; and

129 (ii) The part of the structure in which licensed
130 gaming activities are conducted is located entirely in an area

131 which is located no more than eight hundred (800) feet from the
132 mean high-water line (as defined in Section 29-15-1) of the waters
133 within the State of Mississippi, which lie adjacent to the State
134 of Mississippi south of the three (3) most southern counties in
135 the State of Mississippi, including the Mississippi Sound, St.
136 Louis Bay, Biloxi Bay and Pascagoula Bay, or no farther north than
137 the southern boundary of the right-of-way for U.S. Highway 90,
138 whichever is greater;

139 (c) On a vessel as defined in Section 27-109-1 whenever
140 such vessel is on the Mississippi River or navigable waters within
141 any county bordering on the Mississippi River, and in which the
142 registered voters of the county in which the port is located have
143 not voted to prohibit such betting, gaming or wagering on vessels
144 as provided in Section 19-3-79; or

145 (d) That is legal under the laws of the State of
146 Mississippi.

147 **SECTION 4.** Section 97-33-7, Mississippi Code of 1972, is
148 amended as follows:

149 97-33-7. (1) It shall be unlawful for any person or
150 persons, firm, copartnership or corporation to have in possession,
151 own, control, display, or operate any cane rack, knife rack,
152 artful dodger, punch board, roll down, merchandise wheel, slot
153 machine, pinball machine, or similar device or devices. Provided,
154 however, that this section shall not be so construed as to make
155 unlawful the ownership, possession, control, display or operation
156 of any antique coin machine as defined in Section 27-27-12, or any
157 music machine or bona fide automatic vending machine where the
158 purchaser receives exactly the same quantity of merchandise on
159 each operation of said machine. Any slot machine other than an
160 antique coin machine as defined in Section 27-27-12 which
161 delivers, or is so constructed as that by operation thereof it
162 will deliver to the operator thereof anything of value in varying
163 quantities, in addition to the merchandise received, and any slot

164 machine other than an antique coin machine as defined in Section
165 27-27-12 that is constructed in such manner as that slugs, tokens,
166 coins or similar devices are, or may be, used and delivered to the
167 operator thereof in addition to merchandise of any sort contained
168 in such machine, is hereby declared to be a gambling device, and
169 shall be deemed unlawful under the provisions of this section.
170 Provided, however, that pinball machines which do not return to
171 the operator or player thereof anything but free additional games
172 or plays shall not be deemed to be gambling devices, and neither
173 this section nor any other law shall be construed to prohibit
174 same.

175 (2) No property right shall exist in any person, natural or
176 artificial, or be vested in such person, in any or all of the
177 devices described herein that are not exempted from the provisions
178 of this section; and all such devices are hereby declared to be at
179 all times subject to confiscation and destruction, and their
180 possession shall be unlawful, except when in the possession of
181 officers carrying out the provisions of this section. It shall be
182 the duty of all law-enforcing officers to seize and immediately
183 destroy all such machines and devices.

184 (3) A first violation of the provisions of this section
185 shall be deemed a misdemeanor, and the party offending shall, upon
186 conviction, be fined in any sum not exceeding Five Hundred Dollars
187 (\$500.00), or imprisoned not exceeding three (3) months, or both,
188 in the discretion of the court. In the event of a second
189 conviction for a violation of any of the provisions of this
190 section, the party offending shall be subject to a sentence of not
191 less than six (6) months in the county jail, nor more than two (2)
192 years in the State Penitentiary, in the discretion of the trial
193 court.

194 (4) Notwithstanding any provision of this section to the
195 contrary, it shall not be unlawful to operate any equipment or
196 device described in subsection (1) of this section or any gaming,

197 gambling or similar device or devices by whatever name called
198 while:

199 (a) On a cruise vessel as defined in Section 27-109-1
200 whenever such vessel is in the waters within the State of
201 Mississippi, which lie adjacent to the State of Mississippi south
202 of the three (3) most southern counties in the State of
203 Mississippi, including the Mississippi Sound, St. Louis Bay,
204 Biloxi Bay and Pascagoula Bay, and in which the registered voters
205 of the county in which the port is located have not voted to
206 prohibit such betting, gaming or wagering on cruise vessels as
207 provided in Section 19-3-79;

208 (b) In a structure on shore in any of the three (3)
209 most southern counties in the State of Mississippi in which the
210 registered voters of the county have not voted to prohibit such
211 betting, gaming or wagering on cruise vessels as provided in
212 Section 19-3-79, if:

213 (i) The structure is owned by a person possessing
214 a gaming license, as defined in Section 75-76-5, to conduct legal
215 gaming on a cruise vessel under paragraph (a) of this subsection;
216 and

217 (ii) The part of the structure in which licensed
218 gaming activities are conducted is located entirely in an area
219 which is located no more than eight hundred (800) feet from the
220 mean high-water line (as defined in Section 29-15-1) of the waters
221 within the State of Mississippi, which lie adjacent to the State
222 of Mississippi south of the three (3) most southern counties in
223 the State of Mississippi, including the Mississippi Sound, St.
224 Louis Bay, Biloxi Bay and Pascagoula Bay, or no farther north than
225 the southern boundary of the right-of-way for U.S. Highway 90,
226 whichever is greater;

227 (c) On a vessel as defined in Section 27-109-1 whenever
228 such vessel is on the Mississippi River or navigable waters within
229 any county bordering on the Mississippi River, and in which the

230 registered voters of the county in which the port is located have
231 not voted to prohibit such betting, gaming or wagering on vessels
232 as provided in Section 19-3-79; or

233 (d) That is legal under the laws of the State of
234 Mississippi.

235 (5) Notwithstanding any provision of this section to the
236 contrary, it shall not be unlawful (a) to own, possess, repair or
237 control any gambling device, machine or equipment in a licensed
238 gaming establishment or on the business premises appurtenant to
239 any such licensed gaming establishment during any period of time
240 in which such licensed gaming establishment is being constructed,
241 repaired, maintained or operated in this state; (b) to install any
242 gambling device, machine or equipment in any licensed gaming
243 establishment; (c) to possess or control any gambling device,
244 machine or equipment during the process of procuring or
245 transporting such device, machine or equipment for installation on
246 any such licensed gaming establishment; or (d) to store in a
247 warehouse or other storage facility any gambling device, machine,
248 equipment, or part thereof, regardless of whether the county or
249 municipality in which the warehouse or storage facility is located
250 has approved gaming aboard cruise vessels or vessels, provided
251 that such device, machine or equipment is operated only in a
252 county or municipality that has approved gaming aboard cruise
253 vessels or vessels. Any gambling device, machine or equipment
254 that is owned, possessed, controlled, installed, procured,
255 repaired, transported or stored in accordance with this subsection
256 shall not be subject to confiscation, seizure or destruction, and
257 any person, firm, partnership or corporation which owns,
258 possesses, controls, installs, procures, repairs, transports or
259 stores any gambling device, machine or equipment in accordance
260 with this subsection shall not be subject to any prosecution or
261 penalty under this section. Any person constructing or repairing
262 such cruise vessels or vessels within a municipality shall comply

263 with all municipal ordinances protecting the general health or
264 safety of the residents of the municipality.

265 **SECTION 5.** Section 97-33-17, Mississippi Code of 1972, is
266 amended as follows:

267 97-33-17. (1) All monies exhibited for the purpose of
268 betting or alluring persons to bet at any game, and all monies
269 staked or betted, shall be liable to seizure by any sheriff,
270 constable, or police officer, together with all the appliances
271 used or kept for use in gambling, or by any other person; and all
272 the monies so seized shall be accounted for by the person making
273 the seizure, and all appliances seized shall be destroyed;
274 provided, however, this section shall not apply to betting, gaming
275 or wagering on:

276 (a) A cruise vessel as defined in Section 27-109-1
277 whenever such vessel is in the waters within the State of
278 Mississippi, which lie adjacent to the State of Mississippi south
279 of the three (3) most southern counties in the State of
280 Mississippi, including the Mississippi Sound, St. Louis Bay,
281 Biloxi Bay and Pascagoula Bay, and in which the registered voters
282 of the county in which the port is located have not voted to
283 prohibit such betting, gaming or wagering on cruise vessels as
284 provided in Section 19-3-79;

285 (b) In a structure on shore in any of the three (3)
286 most southern counties in the State of Mississippi in which the
287 registered voters of the county have not voted to prohibit such
288 betting, gaming or wagering on cruise vessels as provided in
289 Section 19-3-79, if:

290 (i) The structure is owned by a person possessing
291 a gaming license, as defined in Section 75-76-5, to conduct legal
292 gaming on a cruise vessel under paragraph (a) of this subsection;
293 and

294 (ii) The part of the structure in which licensed
295 gaming activities are conducted is located entirely in an area

296 which is located no more than eight hundred (800) feet from the
297 mean high-water line (as defined in Section 29-15-1) of the waters
298 within the State of Mississippi, which lie adjacent to the State
299 of Mississippi south of the three (3) most southern counties in
300 the State of Mississippi, including the Mississippi Sound, St.
301 Louis Bay, Biloxi Bay and Pascagoula Bay, or no farther north than
302 the southern boundary of the right-of-way for U.S. Highway 90,
303 whichever is greater;

304 (c) A vessel as defined in Section 27-109-1 whenever
305 such vessel is on the Mississippi River or navigable waters within
306 any county bordering on the Mississippi River, and in which the
307 registered voters of the county in which the port is located have
308 not voted to prohibit such betting, gaming or wagering on vessels
309 as provided in Section 19-3-79; or

310 (d) That is legal under the laws of the State of
311 Mississippi.

312 (2) Nothing in this section shall apply to any gambling
313 device, machine or equipment that is owned, possessed, controlled,
314 installed, procured, repaired or transported in accordance with
315 subsection (4) of Section 97-33-7.

316 **SECTION 6.** Section 97-33-25, Mississippi Code of 1972, is
317 amended as follows:

318 97-33-25. If any person shall sell or buy, either directly
319 or indirectly, any chance in what is commonly called pool, upon
320 any event whatever, or shall in any manner engage in such business
321 or pastime, he shall be fined not more than Five Hundred Dollars
322 (\$500.00) or shall be imprisoned in the county jail not more than
323 ninety (90) days; provided, however, this section shall not apply
324 to betting, gaming or wagering:

325 (a) On a cruise vessel as defined in Section 27-109-1
326 whenever such vessel is in the waters within the State of
327 Mississippi, which lie adjacent to the State of Mississippi south
328 of the three (3) most southern counties in the State of

329 Mississippi, including the Mississippi Sound, St. Louis Bay,
330 Biloxi Bay and Pascagoula Bay, and in which the registered voters
331 of the county in which the port is located have not voted to
332 prohibit such betting, gaming or wagering on cruise vessels as
333 provided in Section 19-3-79;

334 (b) In a structure on shore in any of the three (3)
335 most southern counties in the State of Mississippi in which the
336 registered voters of the county have not voted to prohibit such
337 betting, gaming or wagering on cruise vessels as provided in
338 Section 19-3-79, if:

339 (i) The structure is owned by a person possessing
340 a gaming license, as defined in Section 75-76-5, to conduct legal
341 gaming on a cruise vessel under paragraph (a) of this section; and

342 (ii) The part of the structure in which licensed
343 gaming activities are conducted is located entirely in an area
344 which is located no more than eight hundred (800) feet from the
345 mean high-water line (as defined in Section 29-15-1) of the waters
346 within the State of Mississippi, which lie adjacent to the State
347 of Mississippi south of the three (3) most southern counties in
348 the State of Mississippi, including the Mississippi Sound, St.
349 Louis Bay, Biloxi Bay and Pascagoula Bay, or no farther north than
350 the southern boundary of the right-of-way for U.S. Highway 90,
351 whichever is greater;

352 (c) On a vessel as defined in Section 27-109-1 whenever
353 such vessel is on the Mississippi River or navigable waters within
354 any county bordering on the Mississippi River, and in which the
355 registered voters of the county in which the port is located have
356 not voted to prohibit such betting, gaming or wagering on vessels
357 as provided in Section 19-3-79; or

358 (d) That is legal under the laws of the State of
359 Mississippi.

360 **SECTION 7.** Section 97-33-27, Mississippi Code of 1972, is
361 amended as follows:

362 97-33-27. If any person shall bet on a horse race or a yacht
363 race or on a shooting match, he shall be fined not more than Five
364 Hundred Dollars (\$500.00), and, unless the fine and costs be
365 immediately paid, he shall be imprisoned in the county jail not
366 more than ninety (90) days; provided, however, this section shall
367 not apply to betting, gaming or wagering:

368 (a) On a cruise vessel as defined in Section 27-109-1
369 whenever such vessel is in the waters within the State of
370 Mississippi, which lie adjacent to the State of Mississippi south
371 of the three (3) most southern counties in the State of
372 Mississippi, including the Mississippi Sound, St. Louis Bay,
373 Biloxi Bay and Pascagoula Bay, and in which the registered voters
374 of the county in which the port is located have not voted to
375 prohibit such betting, gaming or wagering on cruise vessels as
376 provided in Section 19-3-79;

377 (b) In a structure on shore in any of the three (3)
378 most southern counties in the State of Mississippi in which the
379 registered voters of the county have not voted to prohibit such
380 betting, gaming or wagering on cruise vessels as provided in
381 Section 19-3-79, if:

382 (i) The structure is owned by a person possessing
383 a gaming license, as defined in Section 75-76-5, to conduct legal
384 gaming on a cruise vessel under paragraph (a) of this section; and

385 (ii) The part of the structure in which licensed
386 gaming activities are conducted is located entirely in an area
387 which is located no more than eight hundred (800) feet from the
388 mean high-water line (as defined in Section 29-15-1) of the waters
389 within the State of Mississippi, which lie adjacent to the State
390 of Mississippi south of the three (3) most southern counties in
391 the State of Mississippi, including the Mississippi Sound, St.
392 Louis Bay, Biloxi Bay and Pascagoula Bay, or no farther north than
393 the southern boundary of the right-of-way for U.S. Highway 90,
394 whichever is greater;

395 (c) On a vessel as defined in Section 27-109-1 whenever
396 such vessel is on the Mississippi River or navigable waters within
397 any county bordering on the Mississippi River, and in which the
398 registered voters of the county in which the port is located have
399 not voted to prohibit such betting, gaming or wagering on vessels
400 as provided in Section 19-3-79; or

401 (d) That is legal under the laws of the State of
402 Mississippi.

403 **SECTION 8.** Every entity possessing a gaming license, as
404 defined in Section 75-76-5, that reconstructs, constructs, repairs
405 or renovates properties affected by Hurricane Katrina is urged and
406 encouraged to set aside at least twenty percent (20%) of such
407 reconstruction, construction, repair or renovation contracts for
408 expenditure with small business concerns owned and controlled by
409 socially and economically disadvantaged individuals, and is urged
410 and encouraged to set aside at least thirty percent (30%) of such
411 contracts for expenditure with other Mississippi domiciled
412 businesses. The term "socially and economically disadvantaged
413 individuals" shall have the meaning ascribed to such term under
414 Section 8(d) of the Small Business Act (15 USCS, Section 637(d))
415 and relevant subcontracting regulations promulgated pursuant
416 thereto; except that women shall be presumed to be socially and
417 economically disadvantaged individuals for the purposes of this
418 section.

419 **SECTION 9.** This act shall take effect and be in force from
420 and after its passage.