

By: Representatives Ellington, Moak

To: Gaming

HOUSE BILL NO. 707

1 AN ACT TO MAKE IT UNLAWFUL FOR ANY PERSON TO SELL CARDS,
2 TOKENS, CHIPS OR SIMILAR ITEMS, THAT ENTITLE A BUYER TO LONG
3 DISTANCE TELEPHONE SERVICE OR OTHER FORMS OF SERVICE, AND THAT ARE
4 ATTACHED TO, ACCOMPANIED BY OR PART OF A SCRATCH PAD, BAR CODE OR
5 SIMILAR ITEM THAT THE BUYER MAY USE TO WIN, REDEEM OR OTHERWISE
6 OBTAIN ANYTHING OF VALUE GREATER THAN THE AMOUNT PAID FOR THE
7 CARD, TOKEN, CHIP OR OTHER ITEM; TO AMEND SECTIONS 97-33-1,
8 97-33-7, 97-33-9 AND 75-76-5, MISSISSIPPI CODE OF 1972, IN
9 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The following shall be codified in Chapter 33,
12 Title 97, Mississippi Code of 1972:

13 It shall be unlawful for any person to sell cards, tokens,
14 chips or similar items, that entitle a buyer to long distance
15 telephone service or other forms of service, and that are attached
16 to, accompanied by or part of a scratch pad, bar code or similar
17 item that the buyer may use to win, redeem or otherwise obtain
18 anything of value greater than the amount paid for the card,
19 token, chip or other item, and such a sale shall constitute an
20 illegal gambling activity. Any person convicted of a violation of
21 this section shall be punished as provided for in this chapter.
22 The provisions of this section shall not apply to any prizes or
23 sweepstakes which may be offered by vendors or retailers
24 associated with the purchase of food or beverages.

25 **SECTION 2.** Section 97-33-1, Mississippi Code of 1972, is
26 amended as follows:

27 97-33-1. If any person shall encourage, promote or play at
28 any game, play, amusement or other illegal gambling activity, for
29 money or other valuable thing, or shall wager or bet, promote or
30 encourage the wagering or betting of any money or other valuable

31 things, upon any game, play, amusement, cockfight, Indian ball
32 play, duel, or other illegal gambling activity, or upon the result
33 of any election, event or contingency whatever, upon conviction
34 thereof, he shall be fined in a sum not more than Five Hundred
35 Dollars (\$500.00); and, unless such fine and costs be immediately
36 paid, shall be imprisoned for any period not more than ninety (90)
37 days. However, this section shall not apply to betting, gaming or
38 wagering:

39 (a) On a cruise vessel as defined in Section 27-109-1
40 whenever such vessel is in the waters within the State of
41 Mississippi, which lie adjacent to the State of Mississippi south
42 of the three (3) most southern counties in the State of
43 Mississippi, including the Mississippi Sound, St. Louis Bay,
44 Biloxi Bay and Pascagoula Bay, and in which the registered voters
45 of the county in which the port is located have not voted to
46 prohibit such betting, gaming or wagering on cruise vessels as
47 provided in Section 19-3-79;

48 (b) In a structure located in whole or in part on shore
49 in any of the three (3) most southern counties in the State of
50 Mississippi in which the registered voters of the county have
51 voted to allow such betting, gaming or wagering on cruise vessels
52 as provided in Section 19-3-79, if:

53 (i) The structure is owned, leased or controlled
54 by a person possessing a gaming license, as defined in Section
55 75-76-5, to conduct legal gaming on a cruise vessel under
56 paragraph (a) of this section;

57 (ii) The part of the structure in which licensed
58 gaming activities are conducted is located entirely in an area
59 which is located no more than eight hundred (800) feet from the
60 mean high-water line (as defined in Section 29-15-1) of the waters
61 within the State of Mississippi, which lie adjacent to the State
62 of Mississippi south of the three (3) most southern counties in
63 the State of Mississippi, including the Mississippi Sound, St.

64 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
65 Harrison County only, no farther north than the southern boundary
66 of the right-of-way for U.S. Highway 90, whichever is greater; and

67 (iii) In the case of a structure that is located
68 in whole or part on shore, the part of the structure in which
69 licensed gaming activities are conducted shall lie adjacent to
70 state waters south of the three (3) most southern counties in the
71 State of Mississippi, including the Mississippi Sound, St. Louis
72 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
73 structure is located consists of a parcel of real property,
74 easements and rights-of-way for public streets and highways shall
75 not be construed to interrupt the contiguous nature of the parcel,
76 nor shall the footage contained within the easements and
77 rights-of-way be counted in the calculation of the distances
78 specified in subparagraph (ii).

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

85 (d) That is legal under the laws of the State of
86 Mississippi.

87 **SECTION 3.** Section 97-33-7, Mississippi Code of 1972, is
88 amended as follows:

89 97-33-7. (1) Except as otherwise provided herein, it shall
90 be unlawful for any person or persons, firm, copartnership or
91 corporation to have in possession, own, control, display, or
92 operate any cane rack, knife rack, artful dodger, punch board,
93 roll down, merchandise wheel, slot machine, pinball machine, or
94 similar device or devices, or for any person to possess with
95 intent to sell cards, tokens, chips or other items described in
96 Section 1 of this act. * * * This section shall not be so

97 construed as to make unlawful the ownership, possession, control,
98 display or operation of any antique coin machine as defined in
99 Section 27-27-12, or any music machine or bona fide automatic
100 vending machine where the purchaser receives exactly the same
101 quantity of merchandise on each operation of said machine. Any
102 slot machine other than an antique coin machine as defined in
103 Section 27-27-12 which delivers, or is so constructed as that by
104 operation thereof it will deliver to the operator thereof anything
105 of value in varying quantities, in addition to the merchandise
106 received, and any slot machine other than an antique coin machine
107 as defined in Section 27-27-12 that is constructed in such manner
108 as that slugs, tokens, coins or similar devices are, or may be,
109 used and delivered to the operator thereof in addition to
110 merchandise of any sort contained in such machine, is hereby
111 declared to be a gambling device, and shall be deemed unlawful
112 under the provisions of this section. * * * However, * * *
113 pinball machines which do not return to the operator or player
114 thereof anything but free additional games or plays shall not be
115 deemed to be gambling devices, and neither this section nor any
116 other law shall be construed to prohibit same.

117 (2) No property right shall exist in any person, natural or
118 artificial, or be vested in such person, in any or all of the
119 devices described herein that are not exempted from the provisions
120 of this section; and all such devices are hereby declared to be at
121 all times subject to confiscation and destruction, and their
122 possession shall be unlawful, except when in the possession of
123 officers carrying out the provisions of this section. It shall be
124 the duty of all law-enforcing officers to seize and immediately
125 destroy all such machines and devices.

126 (3) A first violation of the provisions of this section
127 shall be deemed a misdemeanor, and the party offending shall, upon
128 conviction, be fined in any sum not exceeding Five Hundred Dollars
129 (\$500.00), or imprisoned not exceeding three (3) months, or both,

130 in the discretion of the court. In the event of a second
131 conviction for a violation of any of the provisions of this
132 section, the party offending shall be subject to a sentence of not
133 less than six (6) months in the county jail, nor more than two (2)
134 years in the State Penitentiary, in the discretion of the trial
135 court.

136 (4) Notwithstanding any provision of this section to the
137 contrary, it shall not be unlawful to operate any equipment or
138 device described in subsection (1) of this section or any gaming,
139 gambling or similar device or devices by whatever name
140 called * * *:

141 (a) While on a cruise vessel as defined in Section
142 27-109-1 whenever such vessel is in the waters within the State of
143 Mississippi, which lie adjacent to the State of Mississippi south
144 of the three (3) most southern counties in the State of
145 Mississippi, including the Mississippi Sound, St. Louis Bay,
146 Biloxi Bay and Pascagoula Bay, and in which the registered voters
147 of the county in which the port is located have not voted to
148 prohibit such betting, gaming or wagering on cruise vessels as
149 provided in Section 19-3-79;

150 (b) While in a structure located in whole or in part on
151 shore in any of the three (3) most southern counties in the State
152 of Mississippi in which the registered voters of the county have
153 voted to allow such betting, gaming or wagering on cruise vessels
154 as provided in Section 19-3-79, if:

155 (i) The structure is owned, leased or controlled
156 by a person possessing a gaming license, as defined in Section
157 75-76-5, to conduct legal gaming on a cruise vessel under
158 paragraph (a) of this subsection;

159 (ii) The part of the structure in which licensed
160 gaming activities are conducted is located entirely in an area
161 which is located no more than eight hundred (800) feet from the
162 mean high-water line (as defined in Section 29-15-1) of the waters

163 within the State of Mississippi, which lie adjacent to the State
164 of Mississippi south of the three (3) most southern counties in
165 the State of Mississippi, including the Mississippi Sound, St.
166 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
167 Harrison County only, no farther north than the southern boundary
168 of the right-of-way for U.S. Highway 90, whichever is greater; and

169 (iii) In the case of a structure that is located
170 in whole or part on shore, the part of the structure in which
171 licensed gaming activities are conducted shall lie adjacent to
172 state waters south of the three (3) most southern counties in the
173 State of Mississippi, including the Mississippi Sound, St. Louis
174 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
175 structure is located consists of a parcel of real property,
176 easements and rights-of-way for public streets and highways shall
177 not be construed to interrupt the contiguous nature of the parcel,
178 nor shall the footage contained within the easements and
179 rights-of-way be counted in the calculation of the distances
180 specified in subparagraph (ii).

181 (c) While on a vessel as defined in Section 27-109-1
182 whenever such vessel is on the Mississippi River or navigable
183 waters within any county bordering on the Mississippi River, and
184 in which the registered voters of the county in which the port is
185 located have not voted to prohibit such betting, gaming or
186 wagering on vessels as provided in Section 19-3-79; or

187 (d) That is legal under the laws of the State of
188 Mississippi.

189 (5) Notwithstanding any provision of this section to the
190 contrary, it shall not be unlawful (a) to own, possess, repair or
191 control any gambling device, machine or equipment in a licensed
192 gaming establishment or on the business premises appurtenant to
193 any such licensed gaming establishment during any period of time
194 in which such licensed gaming establishment is being constructed,
195 repaired, maintained or operated in this state; (b) to install any

196 gambling device, machine or equipment in any licensed gaming
197 establishment; (c) to possess or control any gambling device,
198 machine or equipment during the process of procuring or
199 transporting such device, machine or equipment for installation on
200 any such licensed gaming establishment; or (d) to store in a
201 warehouse or other storage facility any gambling device, machine,
202 equipment, or part thereof, regardless of whether the county or
203 municipality in which the warehouse or storage facility is located
204 has approved gaming aboard cruise vessels or vessels, provided
205 that such device, machine or equipment is operated only in a
206 county or municipality that has approved gaming aboard cruise
207 vessels or vessels. Any gambling device, machine or equipment
208 that is owned, possessed, controlled, installed, procured,
209 repaired, transported or stored in accordance with this subsection
210 shall not be subject to confiscation, seizure or destruction, and
211 any person, firm, partnership or corporation which owns,
212 possesses, controls, installs, procures, repairs, transports or
213 stores any gambling device, machine or equipment in accordance
214 with this subsection shall not be subject to any prosecution or
215 penalty under this section. Any person constructing or repairing
216 such cruise vessels or vessels within a municipality shall comply
217 with all municipal ordinances protecting the general health or
218 safety of the residents of the municipality.

219 **SECTION 4.** Section 97-33-9, Mississippi Code of 1972, is
220 amended as follows:

221 97-33-9. If any person shall be guilty of selling cards,
222 tokens, chips or other items described in Section 1 of this act,
223 keeping or exhibiting any game or gaming table commonly called
224 A.B.C. or E.O. roulette or rowley-powley, or rouge et noir,
225 roredo, keno, monte, or any faro-bank, or other game, gaming
226 table, or bank of the same or like kind or any other kind or
227 description under any other name whatever, or shall be in any
228 manner either directly or indirectly interested or concerned in

229 any gaming tables, banks, or games, either by furnishing money or
230 articles for the purpose of carrying on the same, being interested
231 in the loss or gain of said table, bank or games, or employed in
232 any manner in conducting, carrying on, or exhibiting said gaming
233 tables, games, or banks, every person so offending and being
234 thereof convicted, shall be fined not less than Twenty-five
235 Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00),
236 or be imprisoned in the county jail not longer than two (2)
237 months, or by both such fine and imprisonment, in the discretion
238 of the court. Nothing in this section shall apply to any person
239 who owns, possesses, controls, installs, procures, repairs or
240 transports any gambling device, machine or equipment in accordance
241 with subsection (4) of Section 97-33-7 or Section 1 of House Bill
242 No. 451, 1991 Regular Session.

243 **SECTION 5.** Section 75-76-5, Mississippi Code of 1972, is
244 amended as follows:

245 75-76-5. As used in this chapter, unless the context
246 requires otherwise:

247 (a) "Applicant" means any person who has applied for or
248 is about to apply for a state gaming license, registration or
249 finding of suitability under the provisions of this chapter or
250 approval of any act or transaction for which approval is required
251 or permitted under the provisions of this chapter.

252 (b) "Application" means a request for the issuance of a
253 state gaming license, registration or finding of suitability under
254 the provisions of this chapter or for approval of any act or
255 transaction for which approval is required or permitted under the
256 provisions of this chapter but does not include any supplemental
257 forms or information that may be required with the application.

258 (c) "Associated equipment" means any equipment or
259 mechanical, electromechanical or electronic contrivance, component
260 or machine used remotely or directly in connection with gaming or
261 with any game, race book or sports pool that would not otherwise

262 be classified as a gaming device, including dice, playing cards,
263 links which connect to progressive slot machines, equipment which
264 affects the proper reporting of gross revenue, computerized
265 systems of betting at a race book or sports pool, computerized
266 systems for monitoring slot machines, and devices for weighing or
267 counting money.

268 (d) "Chairman," through September 30, 1993, means the
269 Chairman of the State Tax Commission, and thereafter means the
270 Chairman of the Mississippi Gaming Commission.

271 (e) "Commission" or "Mississippi Gaming Commission,"
272 through September 30, 1993, means the State Tax Commission, and
273 thereafter means the Mississippi Gaming Commission.

274 (f) "Commission member," through September 30, 1993,
275 means a member of the State Tax Commission, and thereafter means a
276 member of the Mississippi Gaming Commission.

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

281 (h) "Enforcement division" means a particular division
282 supervised by the executive director that provides enforcement
283 functions.

284 (i) "Establishment" means any premises wherein or
285 whereon any gaming is done.

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

290 (k) Except as otherwise provided by law, "game," or
291 "gambling game" means any banking or percentage game played with
292 cards, with dice or with any mechanical, electromechanical or
293 electronic device or machine for money, property, checks, credit
294 or any representative of value, including, without limiting the

295 generality of the foregoing, faro, monte, roulette, keno, fan-tan,
296 twenty-one, blackjack, seven-and-a-half, big injun, klondike,
297 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de
298 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
299 or any other game or device approved by the commission. However,
300 "game" or "gambling game" shall not include bingo games or raffles
301 which are held pursuant to the provisions of Section 97-33-51, or
302 (ii) the sale of items such as cards, tokens, chips or similar
303 items in a manner that is prohibited by Section 1 of this act.

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

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

310 (m) "Gaming device" means any mechanical,
311 electromechanical or electronic contrivance, component or machine
312 used in connection with gaming or any game which affects the
313 result of a wager by determining win or loss. The term includes a
314 system for processing information which can alter the normal
315 criteria of random selection, which affects the operation of any
316 game, or which determines the outcome of a game. The term does
317 not include a system or device which affects a game solely by
318 stopping its operation so that the outcome remains undetermined,
319 and does not include any antique coin machine as defined in
320 Section 27-27-12.

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

- 324 (i) Boxmen;
- 325 (ii) Cashiers;
- 326 (iii) Change personnel;
- 327 (iv) Counting room personnel;

- 328 (v) Dealers;
- 329 (vi) Floormen;
- 330 (vii) Hosts or other persons empowered to extend
331 credit or complimentary services;
- 332 (viii) Keno runners;
- 333 (ix) Keno writers;
- 334 (x) Machine mechanics;
- 335 (xi) Security personnel;
- 336 (xii) Shift or pit bosses;
- 337 (xiii) Shills;
- 338 (xiv) Supervisors or managers; and
- 339 (xv) Ticket writers.

340 The term "gaming employee" also includes employees of
341 manufacturers or distributors of gaming equipment within this
342 state whose duties are directly involved with the manufacture,
343 repair or distribution of gaming equipment.

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

347 (o) "Gaming license" means any license issued by the
348 state which authorizes the person named therein to engage in
349 gaming.

350 (p) "Gross revenue" means the total of all of the
351 following, less the total of all cash paid out as losses to
352 patrons and those amounts paid to purchase annuities to fund
353 losses paid to patrons over several years by independent financial
354 institutions:

- 355 (i) Cash received as winnings;
- 356 (ii) Cash received in payment for credit extended
357 by a licensee to a patron for purposes of gaming; and
- 358 (iii) Compensation received for conducting any
359 game in which the licensee is not party to a wager.

360 For the purposes of this definition, cash or the value of
361 noncash prizes awarded to patrons in a contest or tournament are
362 not losses.

363 The term does not include:

364 (i) Counterfeit money or tokens;

365 (ii) Coins of other countries which are received
366 in gaming devices;

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

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

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

374 (r) "Investigation division" means a particular
375 division supervised by the executive director that provides
376 investigative functions.

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

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

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

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

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

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

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

392 (z) "Party" means the Mississippi Gaming Commission and
393 any licensee or other person appearing of record in any proceeding
394 before the commission; or the Mississippi Gaming Commission and
395 any licensee or other person appearing of record in any proceeding
396 for judicial review of any action, decision or order of the
397 commission.

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

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

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

407 (dd) "Regulation" means a rule, standard, directive or
408 statement of general applicability which effectuates law or policy
409 or which describes the procedure or requirements for practicing
410 before the commission. The term includes a proposed regulation
411 and the amendment or repeal of a prior regulation but does not
412 include:

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

416 (ii) A declaratory ruling;

417 (iii) An interagency memorandum;

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

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

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

424 (ff) "Slot machine" means any mechanical, electrical or
425 other device, contrivance or machine which, upon insertion of a
426 coin, token or similar object, or upon payment of any
427 consideration, is available to play or operate, the play or
428 operation of which, whether by reason of the skill of the operator
429 or application of the element of chance, or both, may deliver or
430 entitle the person playing or operating the machine to receive
431 cash, premiums, merchandise, tokens or anything of value, whether
432 the payoff is made automatically from the machine or in any other
433 manner. The term does not include any antique coin machine as
434 defined in Section 27-27-12.

435 (gg) "Sports pool" means the business of accepting
436 wagers on sporting events, except for athletic events, by any
437 system or method of wagering other than the system known as the
438 "pari-mutuel method of wagering."

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

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

444 (jj) "Work permit" means any card, certificate or
445 permit issued by the commission, whether denominated as a work
446 permit, registration card or otherwise, authorizing the employment
447 of the holder as a gaming employee. A document issued by any
448 governmental authority for any employment other than gaming is not
449 a valid work permit for the purposes of this chapter.

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

453 (ll) "Cheat" means to alter the selection of criteria
454 that determine:

455 (i) The rules of a game; or

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

457 **SECTION 6.** This act shall take effect and be in force from
458 and after July 1, 2006.