

By: Senator(s) Walls

To: Finance

SENATE BILL NO. 2642

1 AN ACT TO PROVIDE FOR THE REGULATION AND LICENSING OF
2 ELECTRONIC DEVICES BY THE MISSISSIPPI GAMING COMMISSION; TO
3 AUTHORIZE THE MISSISSIPPI GAMING COMMISSION TO PROMULGATE RULES
4 AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS ACT; TO
5 LEGALIZE THE MANUFACTURE, SALE, DISTRIBUTION, OWNERSHIP AND
6 OPERATION OF ELECTRONIC DEVICES; TO DESIGNATE THE TYPES OF
7 ESTABLISHMENTS WHERE SUCH DEVICES MAY BE LOCATED; TO PROVIDE
8 PENALTIES FOR THE VIOLATION OF THIS ACT; TO LEVY A MONTHLY LICENSE
9 FEE ON THE NET REVENUE COLLECTED DURING EACH CALENDAR MONTH BY A
10 LICENSEE UNDER THIS ACT; TO PROVIDE THAT 30% OF THE MONIES
11 COLLECTED FROM SUCH MONTHLY LICENSE FEES SHALL BE PLACED IN A
12 SPECIAL FUND TO BE USED BY THE GOVERNOR'S OFFICE, DIVISION OF
13 MEDICAID, WITH THE REMAINING AMOUNT DEPOSITED IN THE STATE GENERAL
14 FUND; TO LEVY ANNUAL LICENSE FEES FOR THE ISSUANCE OR CONTINUATION
15 OF A MANUFACTURER'S, DISTRIBUTOR'S, MACHINE OWNER'S AND PERMIT
16 STICKER LICENSE; TO PROVIDE THAT 90% OF THE MONIES COLLECTED FROM
17 THE MANUFACTURER'S ANNUAL LICENSE SHALL BE DISTRIBUTED TO THE
18 COUNTY IN WHICH THE LICENSEE IS LOCATED TO BE USED FOR LAW
19 ENFORCEMENT PURPOSES AND JUVENILE SERVICES, WITH THE REMAINDER
20 DISTRIBUTED TO THE MISSISSIPPI GAMING COMMISSION TO ENFORCE
21 CERTAIN PROVISIONS OF THIS ACT; TO PROVIDE THAT 40% OF THE MONIES
22 COLLECTED FROM ALL OTHER ANNUAL LICENSE FEES SHALL BE DEPOSITED
23 INTO THE SPECIAL FUND TO BE USED BY THE GOVERNOR'S OFFICE,
24 DIVISION OF MEDICAID, WITH THE REMAINING AMOUNT TO BE DEPOSITED IN
25 THE STATE GENERAL FUND; TO AMEND SECTIONS 21-19-19, 27-27-3,
26 67-1-71, 87-1-5, 95-3-25, 97-33-1 AND 97-33-7, MISSISSIPPI CODE OF
27 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
28 PURPOSES.

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

30 **SECTION 1.** As used in Sections 1 through 6 of this act, the
31 following definitions shall have the meanings ascribed herein
32 unless the context clearly requires otherwise:

33 (a) "Commission" means the Mississippi Gaming
34 Commission.

35 (b) "Distributor" means a partnership or corporation
36 licensed under this act to buy, sell, lease, repair or distribute
37 electronic devices. The term excludes machine owners and
38 manufacturers.

39 (c) "Gross proceeds" means the total amount of money
40 placed into electronic devices.

41 (d) "Incentive" means a consideration, including a
42 premium or bonus in cash or advance commission on merchandise,
43 offered from a machine owner to a licensee in order to solicit its
44 business.

45 (e) "Licensee" means a partnership or corporation that
46 has been issued a license by the Mississippi Gaming Commission for
47 the placement and operation of devices on the premises of the
48 individual, partnership or corporation.

49 (f) "Licensed premises" means any restaurant, bar,
50 lounge, tavern, motel, hotel, club, fraternal order (such as the
51 Elks, American Legion, American Veterans and American Veterans of
52 Foreign Wars), or mom and pop operation.

53 (g) "Machine owner" means a partnership or corporation
54 which is licensed under this act and which owns, operates, leases,
55 services and maintains electronic devices for placement in
56 licensed premises.

57 (h) "Manufacturer" means a partnership or corporation
58 which is licensed under this act and which manufactures or
59 assembles and programs electronic devices.

60 (i) "Mom and pop operation" means any corporation
61 having financial statements having an annual gross revenue that is
62 less than Forty Thousand Dollars (\$40,000.00).

63 (j) "Net proceeds" means gross proceeds after awards
64 have been paid.

65 (k) "Person" means a corporation, partnership and
66 association, as well as a natural person.

67 (l) "Electronic device" means any video poker machine
68 or eight-liner machine authorized under the provisions of this act
69 that, upon insertion of cash in the amount of Five Cents (5¢) per
70 play, is available to play or simulate the play of a card game
71 utilizing a video display and microprocessors in which, by the
72 skill of the player or by chance, or both, the player may receive
73 free games or credits that can be redeemed for cash. The term

74 does not include a machine that directly dispenses coins, cash,
75 tokens or anything of value or any slot amusement machine as
76 defined in Section 27-27-3. All machines must contain electronic
77 information verifying transmitting components as may be required
78 by the Mississippi Gaming Commission.

79 **SECTION 2.** (1) The commission shall administer the
80 provisions of this act.

81 (2) The commission shall:

82 (a) Provide for licensing requirements under Sections 1
83 through 6 of this act;

84 (b) Prescribe all necessary application and reporting
85 forms;

86 (c) Grant or deny license applications;

87 (d) Prescribe types of electronic devices to be used;

88 and

89 (e) Take all actions necessary to administer and
90 enforce Sections 1 through 6 of this act in the same manner and
91 according to the same procedure, as nearly as is practicable, as
92 provided under the Mississippi Gaming Control Act.

93 (3) Licenses which may be issued to licensees for the
94 placement of electronic devices at or on licensed premises shall
95 be limited to a minimum of five (5) electronic devices and a
96 maximum of twenty (20) electronic devices per licensed premises
97 with no more than one hundred (100) per county.

98 **SECTION 3.** (1) The commission shall levy and collect annual
99 license fees for the following licenses in the amounts listed
100 below:

101 (a) For the issuance or continuation of a
102 manufacturer's license, One Hundred Thousand Dollars
103 (\$100,000.00).

104 (b) For the issuance or continuation of a distributor's
105 license, Fifty Thousand Dollars (\$50,000.00).

106 (c) For the issuance or continuation of a machine
107 owner's license, One Hundred Fifty Dollars (\$150.00) per
108 electronic device or machine for the first fifty (50) individual
109 electronic devices or machines. For each additional electronic
110 device or machines, the annual license fee shall be Fifty Dollars
111 (\$50.00) per electronic device or machine. A machine owner's
112 license allows a machine owner to sell used electronic devices
113 that the owner purchased new and operated for at least two (2)
114 years.

115 (d) A permit sticker license, One Hundred Fifty Dollars
116 (\$150.00) for each.

117 (2) The commission shall refund all license fees if an
118 application is rejected; however, the commission may establish a
119 nonrefundable application fee not to exceed Two Hundred Fifty
120 Dollars (\$250.00) per application.

121 (3) Every electronic device in use in this state must have a
122 current license displayed on the device or machine. Every
123 electronic device licensed under this act must be manufactured by
124 an individual, partnership or corporation licensed under
125 subsection (1)(a) of this section.

126 (4) Failure to pay the annual fees provided for in this
127 section when they are due for continuation of a license shall be
128 deemed a surrender of the license.

129 (5) Failure to pay the monthly license fees, based upon the
130 net revenue of the licensee as provided for in this section, when
131 they are due shall be deemed a surrender of the license.

132 **SECTION 4.** (1) There is imposed and levied on each gaming
133 licensee for electronic devices a license fee based upon all the
134 net revenue of the licensee as follows:

135 (a) Four percent (4%) of the net revenue of the
136 licensee which does not exceed Fifty Thousand Dollars (\$50,000.00)
137 per calendar month;

138 (b) Six percent (6%) of all the net revenue of the
139 licensee which exceeds Fifty Thousand Dollars (\$50,000.00) per
140 calendar month and does not exceed One Hundred Thirty-four
141 Thousand Dollars (\$134,000.00) per calendar month; and

142 (c) Eight percent (8%) of all the net revenue of the
143 licensee which exceeds One Hundred Thirty-four Thousand Dollars
144 (\$134,000.00) per calendar month.

145 (2) Thirty percent (30%) of the revenue collected under
146 subsection (1) of this section shall be deposited in a special
147 fund which is created in the State Treasury. Unexpended amounts
148 remaining in the special fund at the end of a fiscal year shall
149 not lapse into the State General Fund, and any interest earned on
150 amounts in the special fund shall be deposited to the credit of
151 the special fund. Monies in the fund shall be used by the
152 Governor's Office, Division of Medicaid, to be expended by the
153 division for the purposes authorized under state law governing the
154 Medicaid program. The remainder of the revenue collected from the
155 license fees levied under subsection (1) shall be deposited in the
156 State General Fund.

157 (3) All revenue received from any game or gaming device
158 which is leased for operation on the premises of the
159 licensee-owner to a person other than the owner thereof or which
160 is located in an area or space on such premise which is leased by
161 the licensee-owner to any such person, must be attributed to the
162 owner for the purposes of this section and be counted as part of
163 the net revenue of the owner. The lessee is liable to the owner
164 for his proportionate share of such license fees as prescribed in
165 subsection (1) of this section.

166 (4) If the amount of the license fee required to be reported
167 and paid under this section is later determined to be greater or
168 less than the amount actually reported and paid by the licensee,
169 the Chairman of the State Tax Commission shall:

170 (a) Assess and collect the additional licenses fees
171 determined to be due, with interest thereon until paid; or

172 (b) Refund any overpayment, with interest thereon, to
173 the licensee. Interest must be computed, until paid, at the rate
174 of one percent (1%) per month from the first day of the first
175 month following either the due date of the additional license fees
176 or the date of overpayment.

177 **SECTION 5.** (1) Forty percent (40%) of the revenue levied
178 and collected from license fees under Section 3(1)(b), (c) and (d)
179 shall be deposited in a special fund created in Section 4(2) and
180 used as set forth in Section 4(2). The remainder of the revenue
181 collected from such license fees shall be deposited in the State
182 General Fund.

183 (2) Ninety percent (90%) of the revenue levied and collected
184 from the manufacturer's license fee under Section 3(1)(a) shall be
185 distributed to the county in which the licensee is located for any
186 law enforcement purposes and juvenile services. The remainder of
187 the revenue collected from such license fees shall be distributed
188 to the Mississippi Gaming Commission for purposes of enforcing
189 gaming laws and defraying costs incurred by the commission in
190 enforcing Sections 1 through 6 of this act.

191 **SECTION 6.** The commission is authorized to establish a
192 procedure for auditing the electronic devices. The procedure will
193 include reports prepared by the machine owners and electronic
194 auditing at a central location designated by the commission. The
195 timing and contents of the reports shall be established by the
196 commission. The commission shall have the authority to contract
197 with an independent auditing firm to establish and operate all or
198 some of the auditing requirements as established by the
199 commission.

200 **SECTION 7.** Section 21-19-19, Mississippi Code of 1972, is
201 amended as follows:

202 21-19-19. Except as otherwise provided in this section, the
203 governing authority of any municipality shall have the power to
204 restrain, prohibit and suppress blind-tigers, bucket-shops,
205 slaughterhouses, houses of prostitution, disreputable houses,
206 hotels and motels renting rooms on an hourly basis, games and
207 gambling houses and rooms, dance houses and rooms, keno rooms, and
208 all kinds of indecency and other disorderly practices, and
209 disturbance of the peace, and to provide for the punishment of the
210 persons engaged therein.

211 This section shall not apply to the legal operation of
212 devices licensed under the provisions of Sections 1 through 6 of
213 Senate Bill No. 2642, 2006 Regular Session.

214 **SECTION 8.** Section 27-27-3, Mississippi Code of 1972, is
215 amended as follows:

216 27-27-3. The words, terms, and phrases, when used in this
217 article, shall have the meaning ascribed to them herein.

218 (a) "Slot amusement machine" or "machine" means any
219 mechanical device or contrivance which is operated, played,
220 worked, manipulated, or used by inserting or depositing any coin,
221 slug, token, or thing of value, in which may be seen any picture
222 or heard any music, or wherein any game may be played, or any form
223 of diversion had. "Slot amusement machine" or "machine" does not
224 mean any electronic device described in Sections 1 through 6 of
225 Senate Bill No. 2642, 2006 Regular Session.

226 (b) "Officer collecting the tax" means the tax
227 collector of the county, or, in the case of a municipality, the
228 person who collects the taxes for the municipality by whatever
229 title he may be known.

230 (c) "Person" means and includes any individual, firm,
231 partnership, joint venture, association, corporation, estate,
232 trust, or other group or combination acting as a unit and includes
233 the plural as well as the singular in number.

234 **SECTION 9.** Section 67-1-71, Mississippi Code of 1972, is
235 amended as follows:

236 67-1-71. The commission may revoke or suspend any permit
237 issued by it for a violation by the permittee of any of the
238 provisions of this chapter or of the regulations promulgated under
239 it by the commission.

240 Permits must be revoked or suspended for the following
241 causes:

242 (a) Conviction of the permittee for the violation of
243 any of the provisions of this chapter;

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

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

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

253 (e) The possession on the premises of any retail
254 permittee of any alcoholic beverages upon which the tax has not
255 been paid;

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

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

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

265 (i) The conducting of any form of illegal gambling on
266 the premises of any permittee or on any premises connected

267 therewith or the presence on any such premises of any gambling
268 device with the knowledge of the permittee.

269 The provisions of paragraph (i) of this section shall not
270 apply to gambling or the presence of any gambling devices, with
271 knowledge of the permittee, on board a cruise vessel in the waters
272 within the State of Mississippi, which lie adjacent to the State
273 of Mississippi south of the three (3) most southern counties in
274 the State of Mississippi, or on any vessel as defined in Section
275 27-109-1 whenever such vessel is on the Mississippi River or
276 navigable waters within any county bordering on the Mississippi
277 River. The commission may, in its discretion, issue on-premises
278 retailer's permits to a common carrier of the nature described in
279 this paragraph. The provisions of paragraph (i) of this section
280 shall not apply to electronic devices licensed under the
281 provisions of Sections 1 through 6 of Senate Bill No. 2642, 2006
282 Regular Session.

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

286 In addition to the causes specified in this section and other
287 provisions of this chapter, the commission shall be authorized to
288 suspend the permit of any permit holder for being out of
289 compliance with an order for support, as defined in Section
290 93-11-153. The procedure for suspension of a permit for being out
291 of compliance with an order for support, and the procedure for the
292 reissuance or reinstatement of a permit suspended for that
293 purpose, and the payment of any fees for the reissuance or
294 reinstatement of a permit suspended for that purpose, shall be
295 governed by Section 93-11-157 or 93-11-163, as the case may be.
296 If there is any conflict between any provision of Section
297 93-11-157 or 93-11-163 and any provision of this chapter, the
298 provisions of Section 93-11-157 or 93-11-163, as the case may be,
299 shall control.

300 **SECTION 10.** Section 87-1-5, Mississippi Code of 1972, is
301 amended as follows:

302 87-1-5. If any person, by playing at any game whatever, or
303 by betting on the sides or hands of such as do play at any game,
304 or by betting on any horse race or cockfight, or at any other
305 sport or pastime, or by any wager whatever, shall lose any money,
306 property, or other valuable thing, real or personal, and shall pay
307 or deliver the same or any part thereof, the person so losing and
308 paying or delivering the same, or his wife or children, may sue
309 for and recover such money, property, or other valuable thing so
310 lost and paid or delivered, or any part thereof, from the person
311 knowingly receiving the same, with costs. However, this section
312 shall not apply to betting, gaming or wagering:

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

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

324 (i) The structure is owned, leased or controlled
325 by a person possessing a gaming license, as defined in Section
326 75-76-5, to conduct legal gaming on a cruise vessel under
327 paragraph (a) of this section;

328 (ii) The part of the structure in which licensed
329 gaming activities are conducted is located entirely in an area
330 which is located no more than eight hundred (800) feet from the
331 mean high-water line (as defined in Section 29-15-1) of the waters
332 within the State of Mississippi, which lie adjacent to the State

333 of Mississippi south of the three (3) most southern counties in
334 the State of Mississippi, including the Mississippi Sound, St.
335 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
336 Harrison County only, no farther north than the southern boundary
337 of the right-of-way for U.S. Highway 90, whichever is greater; and

338 (iii) In the case of a structure that is located
339 in whole or part on shore, the part of the structure in which
340 licensed gaming activities are conducted shall lie adjacent to
341 state waters south of the three (3) most southern counties in the
342 State of Mississippi, including the Mississippi Sound, St. Louis
343 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
344 structure is located consists of a parcel of real property,
345 easements and rights-of-way for public streets and highways shall
346 not be construed to interrupt the contiguous nature of the parcel,
347 nor shall the footage contained within the easements and
348 rights-of-way be counted in the calculation of the distances
349 specified in subparagraph (ii).

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

353 (d) That is legal under the laws of the State of
354 Mississippi; or

355 (e) In connection with the legal operation of gaming
356 electronic devices licensed under the provisions of Sections 1
357 through 6 of Senate Bill No. 2642, 2006 Regular Session.

358 **SECTION 11.** Section 95-3-25, Mississippi Code of 1972, is
359 amended as follows:

360 95-3-25. Any building, club, vessel, boat, place or room,
361 wherein is kept or exhibited any game or gaming table, commonly
362 called A.B.C. or E.O. roulette, or rowley-powley, or rouquetnoir,
363 roredo, keno, monte, or any faro-bank, dice, or other game, gaming
364 table, or bank of the same or like kind, or any other kind or
365 description of gambling device under any other name whatever, and

366 any such place where information is furnished for the purpose of
367 making and settling bets or wagers on any horse race, prize fight,
368 or on the outcome of any like event, or where bets or wagers are
369 arranged for, made or settled, shall be deemed to be a common
370 nuisance and may be abated by writ of injunction, issued out of a
371 court of equity upon a bill filed in the name of the state by the
372 Attorney General, or any district or county attorney, whose duty
373 requires him to prosecute criminal cases on behalf of the state in
374 the county where the nuisance is maintained, or by any citizen or
375 citizens of such county, such bill to be filed in the county in
376 which the nuisance exists. * * * All rules of evidence and of
377 practice and procedure that pertain to courts of equity generally
378 in this state may be invoked and applied in any injunction
379 procedure hereunder. The provisions of this section shall not
380 apply to any form of gaming or gambling that is legal under the
381 laws of the State of Mississippi or to a licensed gaming
382 establishment and shall not apply to any licensed gaming
383 establishment having on its premises any gambling device, machine
384 or equipment that is owned, possessed, controlled, installed,
385 procured, repaired or transported in accordance with subsection
386 (4) of Section 97-33-7. The provisions of this section shall not
387 apply to the legal operation of gaming electronic devices
388 authorized under Sections 1 through 6 of Senate Bill No. 2642,
389 2006 Regular Session.

390 Upon the abatement of any such nuisance, any person found to
391 be the owner, operator or exhibitor of any gambling device
392 described in the first paragraph of this section may be required
393 by the court to enter into a good and sufficient bond in such
394 amount as may be deemed proper by the court, to be conditioned
395 that the obligor therein will not violate any of the laws of
396 Mississippi pertaining to gaming or gambling for a period of not
397 to exceed two (2) years from the date thereof. The failure to
398 make such bond shall be a contempt of court and for such contempt

399 the person or party shall be confined in the county jail until
400 such bond is made, but not longer than two (2) years. Said bond
401 shall be approved by the clerk of the court where the proceedings
402 were had and shall be filed as a part of the record of such case.

403 **SECTION 12.** Section 97-33-1, Mississippi Code of 1972, is
404 amended as follows:

405 97-33-1. If any person shall encourage, promote or play at
406 any game, play or amusement, other than a fight or fighting match
407 between dogs, for money or other valuable thing, or shall wager or
408 bet, promote or encourage the wagering or betting of any money or
409 other valuable things, upon any game, play, amusement, cockfight,
410 Indian ball play or duel, other than a fight or fighting match
411 between dogs, or upon the result of any election, event or
412 contingency whatever, upon conviction thereof, he shall be fined
413 in a sum not more than Five Hundred Dollars (\$500.00); and, unless
414 such fine and costs be immediately paid, shall be imprisoned for
415 any period not more than ninety (90) days. However, this section
416 shall not apply to betting, gaming or wagering:

417 (a) On a cruise vessel as defined in Section 27-109-1
418 whenever such vessel is in the waters within the State of
419 Mississippi, which lie adjacent to the State of Mississippi south
420 of the three (3) most southern counties in the State of
421 Mississippi, including the Mississippi Sound, St. Louis Bay,
422 Biloxi Bay and Pascagoula Bay, and in which the registered voters
423 of the county in which the port is located have not voted to
424 prohibit such betting, gaming or wagering on cruise vessels as
425 provided in Section 19-3-79;

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

431 (i) The structure is owned, leased or controlled
432 by a person possessing a gaming license, as defined in Section
433 75-76-5, to conduct legal gaming on a cruise vessel under
434 paragraph (a) of this section;

435 (ii) The part of the structure in which licensed
436 gaming activities are conducted is located entirely in an area
437 which is located no more than eight hundred (800) feet from the
438 mean high-water line (as defined in Section 29-15-1) of the waters
439 within the State of Mississippi, which lie adjacent to the State
440 of Mississippi south of the three (3) most southern counties in
441 the State of Mississippi, including the Mississippi Sound, St.
442 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
443 Harrison County only, no farther north than the southern boundary
444 of the right-of-way for U.S. Highway 90, whichever is greater; and

445 (iii) In the case of a structure that is located
446 in whole or part on shore, the part of the structure in which
447 licensed gaming activities are conducted shall lie adjacent to
448 state waters south of the three (3) most southern counties in the
449 State of Mississippi, including the Mississippi Sound, St. Louis
450 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
451 structure is located consists of a parcel of real property,
452 easements and rights-of-way for public streets and highways shall
453 not be construed to interrupt the contiguous nature of the parcel,
454 nor shall the footage contained within the easements and
455 rights-of-way be counted in the calculation of the distances
456 specified in subparagraph (ii).

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

463 (d) That is legal under the laws of the State of
464 Mississippi.

465 This section shall not apply to electronic devices licensed
466 under the provisions of Sections 1 through 6 of Senate Bill No.
467 2642, 2006 Regular Session.

468 **SECTION 13.** Section 97-33-7, Mississippi Code of 1972, is
469 amended as follows:

470 97-33-7. (1) It shall be unlawful for any person or
471 persons, firm, copartnership or corporation to have in possession,
472 own, control, display, or operate any cane rack, knife rack,
473 artful dodger, punchboard, roll down, merchandise wheel, slot
474 machine, pinball machine, or similar device or devices. Provided,
475 however, that this section shall not be so construed as to make
476 unlawful the ownership, possession, control, display or operation
477 of any antique coin machine as defined in Section 27-27-12, or any
478 music machine or bona fide automatic vending machine where the
479 purchaser receives exactly the same quantity of merchandise on
480 each operation of said machine. Any slot machine other than an
481 antique coin machine as defined in Section 27-27-12 which
482 delivers, or is so constructed as that by operation thereof it
483 will deliver to the operator thereof anything of value in varying
484 quantities, in addition to the merchandise received, and any slot
485 machine other than an antique coin machine as defined in Section
486 27-27-12 that is constructed in such manner as that slugs, tokens,
487 coins or similar devices are, or may be, used and delivered to the
488 operator thereof in addition to merchandise of any sort contained
489 in such machine, is hereby declared to be a gambling device, and
490 shall be deemed unlawful under the provisions of this section.
491 Provided, however, that pinball machines which do not return to
492 the operator or player thereof anything but free additional games
493 or plays shall not be deemed to be gambling devices, and neither
494 this section nor any other law shall be construed to prohibit
495 same.

496 (2) No property right shall exist in any person, natural or
497 artificial, or be vested in such person, in any or all of the
498 devices described herein that are not exempted from the provisions
499 of this section; and all such devices are hereby declared to be at
500 all times subject to confiscation and destruction, and their
501 possession shall be unlawful, except when in the possession of
502 officers carrying out the provisions of this section. It shall be
503 the duty of all law-enforcing officers to seize and immediately
504 destroy all such machines and devices.

505 (3) A first violation of the provisions of this section
506 shall be deemed a misdemeanor, and the party offending shall, upon
507 conviction, be fined in any sum not exceeding Five Hundred Dollars
508 (\$500.00), or imprisoned not exceeding three (3) months, or both,
509 in the discretion of the court. In the event of a second
510 conviction for a violation of any of the provisions of this
511 section, the party offending shall be subject to a sentence of not
512 less than six (6) months in the county jail, nor more than two (2)
513 years in the State Penitentiary, in the discretion of the trial
514 court.

515 (4) Notwithstanding any provision of this section to the
516 contrary, it shall not be unlawful to operate any equipment or
517 device described in subsection (1) of this section or any gaming,
518 gambling or similar device or devices by whatever name called
519 while:

520 (a) On a cruise vessel as defined in Section 27-109-1
521 whenever such vessel is in the waters within the State of
522 Mississippi, which lie adjacent to the State of Mississippi south
523 of the three (3) most southern counties in the State of
524 Mississippi, including the Mississippi Sound, St. Louis Bay,
525 Biloxi Bay and Pascagoula Bay, and in which the registered voters
526 of the county in which the port is located have not voted to
527 prohibit such betting, gaming or wagering on cruise vessels as
528 provided in Section 19-3-79;

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

534 (i) The structure is owned, leased or controlled
535 by a person possessing a gaming license, as defined in Section
536 75-76-5, to conduct legal gaming on a cruise vessel under
537 paragraph (a) of this subsection;

538 (ii) The part of the structure in which licensed
539 gaming activities are conducted is located entirely in an area
540 which is located no more than eight hundred (800) feet from the
541 mean high-water line (as defined in Section 29-15-1) of the waters
542 within the State of Mississippi, which lie adjacent to the State
543 of Mississippi south of the three (3) most southern counties in
544 the State of Mississippi, including the Mississippi Sound, St.
545 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
546 Harrison County only, no farther north than the southern boundary
547 of the right-of-way for U.S. Highway 90, whichever is greater; and

548 (iii) In the case of a structure that is located
549 in whole or part on shore, the part of the structure in which
550 licensed gaming activities are conducted shall lie adjacent to
551 state waters south of the three (3) most southern counties in the
552 State of Mississippi, including the Mississippi Sound, St. Louis
553 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
554 structure is located consists of a parcel of real property,
555 easements and rights-of-way for public streets and highways shall
556 not be construed to interrupt the contiguous nature of the parcel,
557 nor shall the footage contained within the easements and
558 rights-of-way be counted in the calculation of the distances
559 specified in subparagraph (ii).

560 (c) On a vessel as defined in Section 27-109-1 whenever
561 such vessel is on the Mississippi River or navigable waters within

562 any county bordering on the Mississippi River, and in which the
563 registered voters of the county in which the port is located have
564 not voted to prohibit such betting, gaming or wagering on vessels
565 as provided in Section 19-3-79; or

566 (d) That is legal under the laws of the State of
567 Mississippi.

568 (5) Notwithstanding any provision of this section to the
569 contrary, it shall not be unlawful (a) to own, possess, repair or
570 control any gambling device, machine or equipment in a licensed
571 gaming establishment or on the business premises appurtenant to
572 any such licensed gaming establishment during any period of time
573 in which such licensed gaming establishment is being constructed,
574 repaired, maintained or operated in this state; (b) to install any
575 gambling device, machine or equipment in any licensed gaming
576 establishment; (c) to possess or control any gambling device,
577 machine or equipment during the process of procuring or
578 transporting such device, machine or equipment for installation on
579 any such licensed gaming establishment; or (d) to store in a
580 warehouse or other storage facility any gambling device, machine,
581 equipment, or part thereof, regardless of whether the county or
582 municipality in which the warehouse or storage facility is located
583 has approved gaming aboard cruise vessels or vessels, provided
584 that such device, machine or equipment is operated only in a
585 county or municipality that has approved gaming aboard cruise
586 vessels or vessels. Any gambling device, machine or equipment
587 that is owned, possessed, controlled, installed, procured,
588 repaired, transported or stored in accordance with this subsection
589 shall not be subject to confiscation, seizure or destruction, and
590 any person, firm, partnership or corporation which owns,
591 possesses, controls, installs, procures, repairs, transports or
592 stores any gambling device, machine or equipment in accordance
593 with this subsection shall not be subject to any prosecution or
594 penalty under this section. Any person constructing or repairing

595 such cruise vessels or vessels within a municipality shall comply
596 with all municipal ordinances protecting the general health or
597 safety of the residents of the municipality.

598 (6) This section shall not apply to electronic devices
599 licensed under the provisions of Sections 1 through 6 of Senate
600 Bill No. 2642, 2006 Regular Session.

601 **SECTION 14.** This act shall take effect and be in force from
602 and after July 1, 2006.