

By: Senator(s) Watson

To: Finance

SENATE BILL NO. 2031

1 AN ACT TO AMEND SECTION 75-76-3, MISSISSIPPI CODE OF 1972, TO
 2 DECLARE AS PUBLIC POLICY THAT CHILDREN ARE ADVERSELY AFFECTED WHEN
 3 A PARENT WHO HAS AN OUTSTANDING CHILD SUPPORT ARREARAGE DIVERTS
 4 CHILD SUPPORT TO GAMING; TO CODIFY SECTION 75-76-58, MISSISSIPPI
 5 CODE OF 1972, TO PROVIDE PROCEDURES FOR THE MISSISSIPPI GAMING
 6 COMMISSION, THE DEPARTMENT OF HUMAN SERVICES AND LICENSEES UNDER
 7 CHAPTER 76 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO CARRY OUT THE
 8 INTERCEPT AND SEIZURE OF GAME WINNINGS OF PARENTS WITH A CHILD
 9 SUPPORT ARREARAGE; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 75-76-3, Mississippi Code of 1972, is
 12 amended as follows:

13 75-76-3. (1) The provisions of this chapter shall not be
 14 construed to legalize any form of gaming which is prohibited under
 15 the Mississippi Constitution or the laws of this state. All legal
 16 gaming which is conducted in this state and which is otherwise
 17 authorized by law shall be regulated and licensed pursuant to the
 18 provisions of this chapter, unless the Legislature specifically
 19 provides otherwise. Nothing in this chapter shall be construed as
 20 encouraging the legalization of gambling in this state.

21 (2) The Legislature hereby finds and declares that lotteries
 22 and gaming both consist of the material element of chance. The
 23 Legislature is prohibited from legislating upon lotteries and
 24 permitted by virtue of its inherent powers to legislate upon
 25 gaming as the occasion arises. The Legislature derives its power
 26 to legislate upon gaming or gambling devices from its inherent
 27 authority over the morals and policy of the people and such power
 28 shall not be considered to conflict with the constitutional
 29 prohibition of lotteries.



30 (3) The Legislature hereby finds, and declares it to be the
31 public policy of this state, that:

32 (a) Regulation of licensed gaming is important in order
33 that licensed gaming is conducted honestly and competitively, that
34 the rights of the creditors of licensees are protected and that
35 gaming is free from criminal and corruptive elements.

36 (b) Public confidence and trust can only be maintained
37 by strict regulation of all persons, locations, practices,
38 associations and activities related to the operation of licensed
39 gaming establishments and the manufacture or distribution of
40 gambling devices and equipment.

41 (c) All establishments where gaming is conducted and
42 where gambling devices are operated, and manufacturers, sellers
43 and distributors of certain gambling devices and equipment must
44 therefore be licensed, controlled and assisted to protect the
45 public health, safety, morals, good order and general welfare of
46 the inhabitants of the state.

47 (d) Because children are adversely affected when
48 parents who have outstanding child support obligations divert
49 their financial support to gaming, a parent's winnings should be
50 applied to the parent's outstanding child support obligations.

51 (4) It is the intent of the Legislature that gaming
52 licensees, to the extent practicable, employ residents of
53 Mississippi as gaming employees and other employees in the
54 operation of their gaming establishments located in this state.

55 (5) No applicant for a license or other affirmative
56 commission approval has any right to a license or the granting of
57 the approval sought. Any license issued or other commission
58 approval granted pursuant to the provisions of this chapter is a
59 revocable privilege, and no holder acquires any vested right
60 therein or thereunder.

61 (6) The Legislature recognizes that Section 98 of the
62 Mississippi Constitution of 1890 prohibits the conducting of any



63 lottery in this state and that, while not defining the term
64 "lottery," Section 98 clearly contemplates, as indicated by
65 specific language contained therein, that a lottery involves the
66 sale of tickets and a drawing in order to determine the winner.
67 The Legislature also recognizes that Section 98 of the Mississippi
68 Constitution of 1890 directs the Legislature to provide by law for
69 the enforcement of its provisions. Therefore, in carrying out its
70 duties under the Constitution and effectuating the intent of
71 Section 98, the Legislature hereby finds that a lottery, as
72 prohibited by the Constitution, does not include all forms of
73 gambling but means any activity in which:

74 (a) The player or players pay or agree to pay something
75 of value for chances, represented and differentiated by tickets,
76 slips of paper or other physical and tangible documentation upon
77 which appear numbers, symbols, characters or other distinctive
78 marks used to identify and designate the winner or winners; and

79 (b) The winning chance or chances are to be determined
80 by a drawing or similar selection method based predominately upon
81 the element of chance or random selection rather than upon the
82 skill or judgment of the player or players; and

83 (c) The holder or holders of the winning chance or
84 chances are to receive a prize or something of valuable
85 consideration; and

86 (d) The activity is conducted and participated in
87 without regard to geographical location, with the player or
88 players not being required to be present upon any particular
89 premises or at any particular location in order to participate or
90 to win.

91 **SECTION 2.** The following shall be codified as Section
92 75-76-58, Mississippi Code of 1972:

93 75-76-58. (1) The commission shall promulgate all rules and
94 regulations necessary to carry out the provisions of this section,
95 including, but not limited to, a procedure requiring the



96 withholding of payments of progressive slot machine annuities and
97 cash gaming winnings of persons who have outstanding child support
98 arrearages or owing child support overpayments, prior to the
99 payment of a progressive slot machine annuity, beginning with the
100 second annuity payment, or cash gaming winnings. Progressive slot
101 machine annuities or cash gaming winnings shall only include
102 payments for which the entity licensed or permitted under Chapter
103 76 of Title 75, Mississippi Code of 1972, is required to file Form
104 W2-G, or a substantially equivalent form, with the United States
105 Internal Revenue Service.

106 (2) The commission may require the Department of Human
107 Services to provide information relating to child support
108 arrearages in a manner, format, or record approved by the
109 commission that gives the entity licensed or permitted under
110 Chapter 76 of Title 75, Mississippi Code of 1972, real-time or
111 immediate electronic database access to the information. If the
112 information relating to such arrearages or overpayments by the
113 Department of Human Services is not available through real-time or
114 immediate electronic database access, the licensee shall not be
115 responsible for withholding cash gaming winnings in accordance
116 with the provisions of this subparagraph.

117 (3) The commission or any entity licensed or permitted under
118 Chapter 76 of Title 75, Mississippi Code of 1972, including any of
119 its officers, employees, attorneys, accountants, or other agents,
120 shall not be civilly or criminally liable to any person, including
121 any customer, for any disclosure of information made in accordance
122 with this section, for encumbering or surrendering assets in
123 response to information provided by the Department of Human
124 Services, or for any claims for damages arising from withholding
125 or failing to withhold any progressive slot machine annuities or
126 cash gaming winnings, based upon information provided to it.

127 (4) If any entity licensed or permitted under Chapter 76 of
128 Title 75, Mississippi Code of 1972, determines that the winner of



129 a progressive slot machine annuity or cash gaming winnings is a
130 person who has outstanding child support arrearages, the entity
131 licensed or permitted under Chapter 76 of Title 75, Mississippi
132 Code of 1972, shall deduct the child support arrearage from the
133 payment of the progressive slot machine annuity or cash gaming
134 winnings. The entity licensed or permitted under Chapter 76 of
135 Title 75, Mississippi Code of 1972, shall forward the deducted
136 amount to the Department of Human Services, Division of Child
137 Support Enforcement within seven (7) days. The entity licensed or
138 permitted under Chapter 76 of Title 75, Mississippi Code of 1972,
139 shall pay the remainder to the person who has outstanding child
140 support arrearages. If the remainder is equal to or less than
141 zero, the person who has an outstanding child support arrearage
142 shall not receive a payment.

143 (5) The Department of Human Services shall release the
144 encumbering game winnings to the obligee after either:

145 (a) A twenty-day period beginning the day the funds are
146 encumbered; or

147 (b) Until such time as the issue of overdue child
148 support is resolved, provided the obligor has filed a petition for
149 hearing with a court of appropriate jurisdiction and served the
150 Department of Human Services through the Attorney General of the
151 State of Mississippi before the end of the twenty-day period.

152 (6) Grounds for the petition challenging the encumbrance of
153 game winnings shall be limited to the following:

154 (a) Mistakes of identity; or

155 (b) Mistakes in amount of overdue child support.

156 (7) Any entity licensed or permitted under Chapter 76 of
157 Title 75, Mississippi Code of 1972, may deduct an administrative
158 fee from each payment of a progressive slot machine annuity,
159 beginning with the second annuity payment, or cash gaming
160 winnings, of persons who have outstanding child support arrearages



161 or owe child support overpayments per singular or periodic
162 payment, not to exceed Thirty-five Dollars (\$35.00).

163 (8) The commission shall also require that the entity
164 licensed or permitted under Chapter 76 of Title 75, Mississippi
165 Code of 1972, adopt procedures designed to prevent employees from
166 willfully failing to withhold payments of progressive slot machine
167 annuities or cash gaming winnings from persons who have
168 outstanding child support arrearages or child support
169 overpayments, based upon the information provided by the
170 Department of Human Services that allows the licensee to identify
171 such persons.

172 (9) Not later than July 1, 2012, the commission shall
173 institute rulemaking procedures as necessary to implement the
174 provisions of this section

175 **SECTION 3.** This act shall take effect and be in force from
176 and after its passage.

