MISSISSIPPI LEGISLATURE REGULAR SESSION 2018

By: Senator(s) Simmons (13th) To: Finance

SENATE BILL NO. 2845

AN ACT TO CREATE A STATE LOTTERY; TO PROVIDE THAT THE STATE LOTTERY SHALL BE ADMINISTERED BY THE MISSISSIPPI GAMING COMMISSION; TO PROVIDE THE POWERS AND DUTIES OF THE MISSISSIPPI GAMING COMMISSION REGARDING THE STATE LOTTERY; TO PROVIDE FOR THE DISPOSITION OF PROCEEDS RECEIVED FROM THE SALE OF LOTTERY TICKETS; TO PROVIDE THAT THE NET PROCEEDS COLLECTED FROM THE SALE OF LOTTERY TICKETS SHALL BE DEPOSITED INTO THE STATE HIGHWAY FUND; TO AMEND SECTIONS 67-1-71, 75-76-3, 75-76-5, 97-33-9, 97-33-11, 97-33-13, 97-33-21, 97-33-23, 97-33-31, 97-33-33, 97-33-35, 97-33-37, 97-33-39, 97-33-41, 97-33-43, 97-33-45, 97-33-47 AND 97-33-49, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAXATION THE SALE OF LOTTERY TICKETS; AND FOR RELATED PURPOSES.

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

SECTION 1. As used in this section and Section 2 of this act, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

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

(b) "Distributor" means any person authorized by the Mississippi Gaming Commission to distribute lottery tickets to

retailers. A person having a gaming license issued under Section 75-76-1 et seq. may be a distributor.

(c) "Lottery" means any activity approved by the Mississippi Gaming Commission in which:

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

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

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

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

(d) "Person" means any association, corporation, firm, partnership, trust or other form of business association as well as a natural person.

(e) "Retailer" means any person authorized by the Mississippi Gaming Commission to sell lottery tickets to the public. A person having a gaming license issued under Section 75-76-1 et seq. may be a retailer.

SECTION 2. (1) There is created and established a state lottery.

(2) The Mississippi Gaming Commission shall administer the state lottery and shall have the authority to:

(a) Prescribe the method and form of application which an applicant for a distributor's license or retailer's license, or both, must follow and complete before consideration of his application by the commission;

(b) Prescribe guidelines for the review of applications for licenses and the approval or disapproval of such applications;

(c) Require an applicant to pay all or any part of the fees and costs of investigation of such applicant as may be determined by the commission, except that no applicant for an initial license shall be required to pay any part of the fees or costs of the investigation of the applicant with regard to the initial license;

(d) Prescribe the manner and method of collection and payment of fees and issuance of licenses;

(e) Prescribe conditions under which a licensee may be subject to revocation or suspension of his license;

(f) Prescribe guidelines regarding the conduct of specific lottery games, including, but not limited to:

(i) The types of games to be conducted;

(ii) The sale price of tickets;

(iii) The number and amount of prizes;

(iv) The method and location of selecting or validating winning tickets;

(v) The frequency and means of conducting drawings which shall be open to the public;

(vi) The manner of payment of prizes;

(vii) The frequency of games and drawings; and

(viii) Any other matters necessary or desirable for the efficient and effective operation of lottery games;

(g) Enter into contracts with distributors for the distribution of lottery tickets to retailers; and

(h) Take any action necessary for the implementation and administration of the provisions of this section and Section 1 of this act and promulgate rules and regulations necessary for the implementation and administration of the provisions of this section and Section 1 of this act.

(3) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this subsection (3) does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the commission shall direct payment to an

adult member of the person's family or the legal guardian of the person on behalf of such person.

(4) The proceeds received from the actual sale of lottery tickets, less a reasonable percentage determined by the commission to be retained by a retailer selling a ticket, shall be remitted to the commission on a monthly basis. The commission shall deposit the proceeds into the State Treasury on the day collected. At the end of each month, the commission shall certify the total proceeds collected from the sale of lottery tickets to the State Treasurer who shall distribute such collections as follows:

(a) As nearly as practicable, forty-five percent (45%) of the proceeds collected during the preceding month from the sale of lottery tickets in the state shall be allocated as prize money, to be distributed by the commission, provided that this provision shall not create any lien, entitlement, cause of action, or other private right, and any rights of holders of lottery tickets shall be determined by the commission in administering the lottery;

(b) A reasonable percentage, as determined by the commission, of the proceeds collected during the preceding month from the sale of lottery tickets in the state shall be allocated for distribution to the commission and paid to the commission to defray the costs of administering the provisions of this section and Section 1 of this act;

(c) Four percent (4%) of the proceeds collected during the preceding month from the sale of lottery tickets within a

county shall be allocated for distribution to such county and paid to such county;

(d) The remainder of the proceeds collected during the preceding month from the sale of lottery tickets in the state shall be deposited into the State Highway Fund to be used exclusively for the construction, reconstruction and maintenance of highways of the State of Mississippi or the payment of interest and principal on bonds when specifically authorized by the Legislature for that purpose.

SECTION 3. Section 67-1-71, Mississippi Code of 1972, is amended as follows:

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

Permits must be revoked or suspended for the following causes:

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

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

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

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

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

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

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

(h) The failure to furnish any bond required by Section 27-71-21 within fifteen (15) days after notice from the department; and

(i) The conducting of any form of illegal gambling on the premises of any permittee or on any premises connected therewith or the presence on any such premises of any gambling device with the knowledge of the permittee.

The provisions of paragraph (i) of this section shall not apply to gambling or the presence of any gambling devices, with knowledge of the permittee, on board a cruise vessel in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in

the State of Mississippi, or on any vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River. The department may, in its discretion, issue on-premises retailer's permits to a common carrier of the nature described in this paragraph.

The provisions of paragraph (i) of this section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

No permit shall be suspended or revoked until after the permittee has been provided reasonable notice of the charges against him for which suspension or revocation is sought and the opportunity to a hearing before the Board of Tax Appeals to contest such charges and the suspension or revocation proposed. Opportunity to a hearing is provided without an actual hearing if the permittee, after receiving reasonable notice, including notice of his right to a hearing, fails to timely request a hearing. The permittee may also at any time waive his rights to reasonable notice and/or to the opportunity to a hearing by agreeing to a suspension or revocation offered by the department. Notwithstanding the requirement above that a permit may not be suspended without notice and opportunity to a hearing, sales of alcoholic beverages by a permittee under a permit for which the bond under Section 27-71-21 has been cancelled shall be suspended from and after issuance of the notice provided in * * * paragraph

(h) above and shall continue to be suspended until the bond is reinstated, a new bond is posted or sufficient cash or securities as provided under Section 27-71-21 are deposited with the State Treasurer for this permit.

In addition to the causes specified in this section and other provisions of this chapter, the department shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 4. Section 75-76-3, Mississippi Code of 1972, is amended as follows:

75-76-3. (1) The provisions of this chapter shall not be construed to legalize any form of gaming which is prohibited under the Mississippi Constitution or the laws of this state. All legal gaming which is conducted in this state and which is otherwise authorized by law shall be regulated and licensed pursuant to the

provisions of this chapter, unless the Legislature specifically provides otherwise. Nothing in this chapter shall be construed as encouraging the legalization of gambling in this state.

(2) The Legislature hereby finds and declares that lotteries and gaming both consist of the material element of chance. The Legislature is * * * permitted by virtue of its inherent powers to legislate upon lotteries and gaming as the occasion arises. The Legislature derives its power to legislate upon lotteries and gaming or gambling devices from its inherent authority over the morals and policy of the people * * *.

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

(a) Regulation of lotteries and licensed gaming is important in order that * * * it be conducted honestly and competitively, that the rights of the creditors of licensees are protected and that * * * it is free from criminal and corruptive elements.

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

(c) All establishments where lotteries or gaming * * *, or both, are conducted and * * * manufacturers, sellers and distributors of certain * * * lottery and gaming devices and

equipment must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the state.

(4) It is the intent of the Legislature that gaming licensees and any entity authorized to conduct a lottery, to the extent practicable, employ residents of Mississippi as * * * employees * * * in the operation of their * * * establishments located in this state.

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

* * *

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

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

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

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

(c) "Associated equipment" means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or with any game, race book or sports pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines, and devices for weighing or counting money.

(d) "Chairman" means the Chairman of the Mississippi Gaming Commission except when used in the term "Chairman of the State Tax Commission." "Chairman of the State Tax Commission" or "commissioner" means the Commissioner of Revenue of the Department of Revenue.

(e) "Commission" or "Mississippi Gaming Commission" means the Mississippi Gaming Commission.

(f) "Commission member" means a member of the Mississippi Gaming Commission.

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

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

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

(j) "Executive director" means the Executive Director of the Mississippi Gaming Commission.

(k) Except as otherwise provided by law, "game," or "gambling game" means any banking or percentage game played with cards, with dice or with any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting, the generality of the foregoing, faro, monte, roulette, keno, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, or any other game or device approved by the commission. However, "game" or "gambling game" shall not include bingo games or raffles which are held pursuant to the provisions of Section 97-33-51, *** * *** the illegal gambling activities described in

Section 97-33-8, or any game authorized by Sections 1 and 2 of this act.

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

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

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

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

(i) Boxmen;

(ii) Cashiers;

(iii) Change personnel;

(iv) Counting room personnel;

(v) Dealers;

(vi) Floormen;

(vii) Hosts or other persons empowered to extend credit or complimentary services;

(viii) Keno runners;

(ix) Keno writers;

(x) Machine mechanics;

(xi) Security personnel;

(xii) Shift or pit bosses;

(xiii) Shills;

(xiv) Supervisors or managers; and

(xv) Ticket writers.

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

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

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

(p) "Gross revenue" means the total of all of the following, less the total of all cash paid out as losses to

patrons and those amounts paid to purchase annuities to fund losses paid to patrons over several years by independent financial institutions:

(i) Cash received as winnings;

(ii) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and

(iii) Compensation received for conducting any game in which the licensee is not party to a wager.

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

The term does not include:

(i) Counterfeit money or tokens;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A declaratory ruling;

(iii) An interagency memorandum;

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

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

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

(ff) "Slot machine" means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a

coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or anything of value, whether the payoff is made automatically from the machine or in any other manner. The term does not include any antique coin machine as defined in Section 27-27-12.

(gg) "Sports pool" means the business of accepting wagers on collegiate or professional sporting events or athletic events, by any system or method of wagering other than the system known as the "pari-mutuel method of wagering."

(hh) "State Tax Commission" or "department" means the Department of Revenue of the State of Mississippi.

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

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

(kk) "Work permit" means any card, certificate or permit issued by the commission, whether denominated as a work permit, registration card or otherwise, authorizing the employment of the holder as a gaming employee. A document issued by any

governmental authority for any employment other than gaming is not a valid work permit for the purposes of this chapter.

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

(mm) "Cheat" means to alter the selection of criteria that determine:

(i) The rules of a game; or

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

(nn) "Promotional activity" means an activity or event conducted or held for the purpose of promoting or marketing the individual licensed gaming establishment that is engaging in the promotional activity. The term includes, but is not limited to, a game of any kind other than as defined in paragraph (k) of this section, a tournament, a contest, a drawing, or a promotion of any kind.

SECTION 6. Section 97-33-9, Mississippi Code of 1972, is amended as follows:

97-33-9. Except as otherwise provided in Section 97-33-8, if any person shall be guilty of keeping or exhibiting any game or gaming table commonly called A.B.C. or E.O. roulette or rowley-powley, or rouge et noir, roredo, keno, monte, or any faro-bank, or other game, gaming table, or bank of the same or like kind or any other kind or description under any other name whatever, or shall be in any manner either directly or indirectly

interested or concerned in any gaming tables, banks, or games, either by furnishing money or articles for the purpose of carrying on the same, being interested in the loss or gain of said table, bank or games, or employed in any manner in conducting, carrying on, or exhibiting said gaming tables, games, or banks, every person so offending and being thereof convicted, shall be fined not less than Twenty-five Dollars ($25.00) nor more than Two Thousand Dollars ($2,000.00), or be imprisoned in the county jail not longer than two (2) months, or by both such fine and imprisonment, in the discretion of the court. Nothing in this section shall apply to any person who owns, possesses, controls, installs, procures, repairs or transports any gambling device, machine or equipment in accordance with subsection (4) of Section 97-33-7 or Section 75-76-34.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 7. Section 97-33-11, Mississippi Code of 1972, is amended as follows:

97-33-11. It shall not be lawful for any association of persons of the character commonly known as a "club," whether such association be incorporated or not, in any manner, either directly or indirectly, to have any interest or concern in any gambling tables, banks, or games, by means of what is sometimes called a "rake-off" or "take-out," or by means of an assessment upon certain combinations, or hands at cards, or by means of a

percentage extracted from players, or an assessment made upon, or a contribution from them, or by any other means, device or contrivance whatsoever. It shall not be lawful for such an association to lend or advance money or any other valuable thing to any person engaged or about to engage in playing any game of chance prohibited by law, or to become responsible directly or indirectly for any money or other valuable thing lost, or which may be lost, by any player in any such game. If any such association shall violate any of the provisions of this section each and every member thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum not more than Five Hundred Dollars ($500.00); and unless such fine and costs be immediately paid, shall be imprisoned in the county jail for not less than five (5) nor more than twenty (20) days. Each grand jury shall cause such of the members of such an association as it may choose to appear before them and submit to examination touching the observance or nonobservance by such association of the provisions hereof.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 8. Section 97-33-13, Mississippi Code of 1972, is amended as follows:

97-33-13. Any owner, lessee, or occupant of any outhouse or other building, who shall knowingly permit or suffer any of the before mentioned tables, banks, or games, or any other game

prohibited by law, to be carried on, kept, or exhibited in his said house or other building, or on his lot or premises, being thereof convicted, shall be fined not less than One Hundred Dollars ($100.00) nor more than Two Thousand Dollars ($2,000.00).

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 9. Section 97-33-21, Mississippi Code of 1972, is amended as follows:

97-33-21. Any person of full age who shall bet any money or thing of any value with a minor, or allow a minor to bet at any game or gaming table exhibited by him, or in which he is interested or in any manner concerned, on conviction thereof, shall be fined not less than Three Hundred Dollars ($300.00) and imprisoned not less than three (3) months.

This section shall apply to minors under the age of eighteen (18) as it might apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 10. Section 97-33-23, Mississippi Code of 1972, is amended as follows:

97-33-23. Any person of full age who shall bet any money or thing of value with a minor, knowing such minor to be under the age of twenty-one (21) years, or allowing any such minor to bet at any game or games, or at any gaming table exhibited by him, or in which he is interested or in any manner concerned, on conviction

thereof, shall be punished by imprisonment in the Penitentiary not exceeding two (2) years.

This section shall apply to minors under the age of eighteen (18) with regard to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 11. Section 97-33-31, Mississippi Code of 1972, is amended as follows:

97-33-31. If any person, in order to raise money for himself or another, or for any purpose whatever, shall publicly or privately put up a lottery to be drawn or adventured for, he shall, on conviction, be imprisoned in the Penitentiary not exceeding five (5) years.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

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

97-33-33. If any person shall in any way advertise any lottery whatever, no matter where located, or shall knowingly have in his possession any posters or other lottery advertisements of any kind, save a regularly issued newspaper containing such an advertisement without intent to circulate the same as an advertisement, he shall, on conviction, be fined not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or be imprisoned in the county jail not exceeding three (3) months, or both.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 13. Section 97-33-35, Mississippi Code of 1972, is amended as follows:

97-33-35. If any newspaper published or circulated in this state shall contain an advertisement of any lottery whatever, or any matter intended to advertise a lottery, no matter where located, the editor or editors, publisher or publishers, and the owner or owners thereof permitting the same, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), and be imprisoned in the county jail not less than ten (10) days nor more than three (3) months, for each offense. The issuance of each separate daily or weekly edition of the newspaper that shall contain such an advertisement shall be considered a separate offense.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 14. Section 97-33-37, Mississippi Code of 1972, is amended as follows:

97-33-37. If any newsdealer or other person shall, directly or indirectly, sell or offer for sale any newspaper or other publication containing a lottery advertisement, he shall be guilty of a misdemeanor *** * *** and, upon conviction, shall be fined not

less than Ten Dollars ($10.00) or imprisoned not less than ten (10) days, or both.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 15. Section 97-33-39, Mississippi Code of 1972, is amended as follows:

97-33-39. If any person shall sell, or offer or expose for sale, any lottery ticket, whether the lottery be in or out of this state, or for or in any other state, territory, district, or country, he shall, on conviction, be fined not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or imprisoned in the county jail not less than ten (10) days nor more than sixty (60) days, or both.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 16. Section 97-33-41, Mississippi Code of 1972, is amended as follows:

97-33-41. If any person shall buy in this state any lottery ticket, whether the lottery be in or out of this state, or of or in any other state, territory, district, or country, he shall, on conviction, be fined not less than Five Dollars ($5.00) nor more than Twenty-five Dollars ($25.00), or be imprisoned in the county jail not exceeding ten (10) days, or both.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 17. Section 97-33-43, Mississippi Code of 1972, is amended as follows:

97-33-43. If any railroad company shall suffer or permit the sale of a lottery ticket of any kind on its cars, or at its depots or depot grounds, or by its employees, no matter where the lottery is located, it shall be guilty of a misdemeanor and, on conviction, shall be fined not less than Twenty Dollars ($20.00) nor more than One Hundred Dollars ($100.00) for every such ticket so sold.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 18. Section 97-33-45, Mississippi Code of 1972, is amended as follows:

97-33-45. If the owner or owners of any steamboat shall suffer or permit the sale of a lottery ticket of any kind on his or their boat, or by his or their employees, no matter where the lottery is located, he or they shall be guilty of a misdemeanor and shall, on conviction, be punished as prescribed in Section 97-33-43.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 19. Section 97-33-47, Mississippi Code of 1972, is amended as follows:

97-33-47. If any person shall act as agent for any lottery or lottery company, no matter where domiciled or located, or if he

shall assume to so act as agent, or if he receive any money or other thing for any such lottery or lottery company, or deliver to any person any ticket or tickets, prize or prizes, or other thing from such lottery or lottery company, he shall, on conviction, be fined not less than One Hundred Dollars ($100.00), nor more than Five Hundred Dollars ($500.00), and be imprisoned in the county jail not less than three (3) months nor more than six (6) months.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 20. Section 97-33-49, Mississippi Code of 1972, is amended as follows:

97-33-49. Except as otherwise provided in Section 97-33-51, if any person, in order to raise money for himself or another, shall publicly or privately put up or in any way offer any prize or thing to be raffled or played for, he shall, on conviction, be fined not more than Twenty Dollars ($20.00), or be imprisoned not more than one (1) month in the county jail.

This section shall not apply to the operation of any game or lottery authorized by Sections 1 and 2 of this act.

SECTION 21. Section 27-65-111, Mississippi Code of 1972, is amended as follows:

27-65-111. The exemptions from the provisions of this chapter which are not industrial, agricultural or governmental, or which do not relate to utilities or taxes, or which are not properly classified as one (1) of the exemption classifications of

this chapter, shall be confined to persons or property exempted by this section or by the Constitution of the United States or the State of Mississippi. No exemptions as now provided by any other section, except the classified exemption sections of this chapter set forth herein, shall be valid as against the tax herein levied. Any subsequent exemption from the tax levied hereunder, except as indicated above, shall be provided by amendments to this section.

No exemption provided in this section shall apply to taxes levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

The tax levied by this chapter shall not apply to the following:

(a) Sales of tangible personal property and services to hospitals or infirmaries owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are subject to and governed by Sections 41-7-123 through 41-7-127.

Only sales of tangible personal property or services which are ordinary and necessary to the operation of such hospitals and infirmaries are exempted from tax.

(b) Sales of daily or weekly newspapers, and periodicals or publications of scientific, literary or educational organizations exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of March 31, 1975, and subscription sales of all magazines.

(c) Sales of coffins, caskets and other materials used in the preparation of human bodies for burial.

(d) Sales of tangible personal property for immediate export to a foreign country.

(e) Sales of tangible personal property to an orphanage, old men's or ladies' home, supported wholly or in part by a religious denomination, fraternal nonprofit organization or other nonprofit organization.

(f) Sales of tangible personal property, labor or services taxable under Sections 27-65-17, 27-65-19 and 27-65-23, to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual.

(g) Sales to elementary and secondary grade schools, junior and senior colleges owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are exempt from state income taxation, provided that this exemption does not apply to sales of property or services which are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.

(h) The gross proceeds of retail sales and the use or consumption in this state of drugs and medicines:

(i) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed or prescription filled by a registered pharmacist in accordance with law; or

(ii) Furnished by a licensed physician, surgeon, dentist or podiatrist to his own patient for treatment of the patient; or

(iii) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, surgeon, dentist or podiatrist; or

(iv) Sold to a licensed physician, surgeon, podiatrist, dentist or hospital for the treatment of a human being; or

(v) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

"Medicines," as used in this paragraph (h), shall mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include any auditory,

prosthetic, ophthalmic or ocular device or appliance, any dentures or parts thereof or any artificial limbs or their replacement parts, articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, or any alcoholic beverage or any other drug or medicine not commonly referred to as a prescription drug.

Notwithstanding the preceding sentence of this paragraph (h), "medicines" as used in this paragraph (h), shall mean and include sutures, whether or not permanently implanted, bone screws, bone pins, pacemakers and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

"Hospital," as used in this paragraph (h), shall have the meaning ascribed to it in Section 41-9-3, Mississippi Code of 1972.

Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this paragraph (h).

(i) Retail sales of automobiles, trucks and truck-tractors if exported from this state within forty-eight (48) hours and registered and first used in another state.

(j) Sales of tangible personal property or services to the Salvation Army and the Muscular Dystrophy Association, Inc.

(k) From July 1, 1985, through December 31, 1992, retail sales of "alcohol blended fuel" as such term is defined in Section 75-55-5. The gasoline-alcohol blend or the straight alcohol eligible for this exemption shall not contain alcohol distilled outside the State of Mississippi.

(l) Sales of tangible personal property or services to the Institute for Technology Development.

(m) The gross proceeds of retail sales of food and drink for human consumption made through vending machines serviced by full line vendors from and not connected with other taxable businesses.

(n) The gross proceeds of sales of motor fuel.

(o) Retail sales of food for human consumption purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, from and after October 1, 1987, or from and after the expiration of any waiver granted pursuant to federal law, the effect of which waiver is to permit the collection by the state of tax on such retail sales of food for human consumption purchased with food stamps.

(p) Sales of cookies for human consumption by the Girl Scouts of America no part of the net earnings from which sales inures to the benefit of any private group or individual.

(q) Gifts or sales of tangible personal property or services to public or private nonprofit museums of art.

(r) Sales of tangible personal property or services to alumni associations of state-supported colleges or universities.

(s) Sales of tangible personal property or services to National Association of Junior Auxiliaries, Inc., and chapters of the National Association of Junior Auxiliaries, Inc.

(t) Sales of tangible personal property or services to domestic violence shelters which qualify for state funding under Sections 93-21-101 through 93-21-113.

(u) Sales of tangible personal property or services to the National Multiple Sclerosis Society, Mississippi Chapter.

(v) Retail sales of food for human consumption purchased with food instruments issued the Mississippi Band of Choctaw Indians under the Women, Infants and Children Program (WIC) funded by the United States Department of Agriculture.

(w) Sales of tangible personal property or services to a private company, as defined in Section 57-61-5, which is making such purchases with proceeds of bonds issued under Section 57-61-1 et seq., the Mississippi Business Investment Act.

(x) The gross collections from the operation of self-service, coin-operated car washing equipment and sales of the service of washing motor vehicles with portable high-pressure washing equipment on the premises of the customer.

(y) Sales of tangible personal property or services to the Mississippi Technology Alliance.

(z) Sales of tangible personal property to nonprofit organizations that provide foster care, adoption services and temporary housing for unwed mothers and their children if the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(aa) Sales of tangible personal property to nonprofit organizations that provide residential rehabilitation for persons with alcohol and drug dependencies if the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(bb) Retail sales of an article of clothing or footwear designed to be worn on or about the human body if the sales price of the article is less than One Hundred Dollars ($100.00) and the sale takes place during a period beginning at 12:01 a.m. on the last Friday in July and ending at 12:00 midnight the following Saturday. This paragraph (bb) shall not apply to:

(i) Accessories including jewelry, handbags, luggage, umbrellas, wallets, watches, backpacks, briefcases, garment bags and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing;

(ii) The rental of clothing or footwear; and

(iii) Skis, swim fins, roller blades, skates and similar items worn on the foot.

From and after January 1, 2010, the governing authorities of a municipality, for retail sales occurring within the corporate limits of the municipality, may suspend the application of the exemption provided for in this paragraph (bb) by adoption of a resolution to that effect stating the date upon which the suspension shall take effect. A certified copy of the resolution shall be furnished to the Department of Revenue at least ninety (90) days prior to the date upon which the municipality desires such suspension to take effect.

(cc) The gross proceeds of sales of tangible personal property made for the sole purpose of raising funds for a school or an organization affiliated with a school.

As used in this paragraph (cc), "school" means any public or private school that teaches courses of instruction to students in any grade from kindergarten through Grade 12.

(dd) Sales of durable medical equipment and home medical supplies when ordered or prescribed by a licensed physician for medical purposes of a patient. As used in this paragraph (dd), "durable medical equipment" and "home medical supplies" mean equipment, including repair and replacement parts for the equipment or supplies listed under Title XVIII of the Social Security Act or under the state plan for medical assistance under Title XIX of the Social Security Act, prosthetics,

orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment. Payment does not have to be made, in whole or in part, by any particular person to be eligible for this exemption. Purchases of home medical equipment and supplies by a provider of home health services or a provider of hospice services are eligible for this exemption if the purchases otherwise meet the requirements of this paragraph.

(ee) Sales of tangible personal property or services to Mississippi Blood Services.

(ff) (i) Subject to the provisions of this paragraph (ff), retail sales of firearms, ammunition and hunting supplies if sold during the annual Mississippi Second Amendment Weekend holiday beginning at 12:01 a.m. on the last Friday in August and ending at 12:00 midnight the following Sunday. For the purposes of this paragraph (ff), "hunting supplies" means tangible personal property used for hunting, including, and limited to, archery equipment, firearm and archery cases, firearm and archery accessories, hearing protection, holsters, belts and slings. Hunting supplies does not include animals used for hunting.

(ii) This paragraph (ff) shall apply only if one or more of the following occur:

1. Title to and/or possession of an eligible item is transferred from a seller to a purchaser; and/or

2. A purchaser orders and pays for an eligible item and the seller accepts the order for immediate

shipment, even if delivery is made after the time period provided in subparagraph (i) of this paragraph (ff), provided that the purchaser has not requested or caused the delay in shipment.

(gg) Sales of nonperishable food items to charitable organizations that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and operate a food bank or food pantry or food lines.

(hh) Sales of tangible personal property or services to the United Way of the Pine Belt Region, Inc.

(ii) Sales of tangible personal property or services to the Mississippi Children's Museum or any subsidiary or affiliate thereof operating a satellite or branch museum within this state.

(jj) Sales of tangible personal property or services to the Jackson Zoological Park.

(kk) Sales of tangible personal property or services to the Hattiesburg Zoo.

(ll) Gross proceeds from sales of food, merchandise or other concessions at an event held solely for religious or charitable purposes at livestock facilities, agriculture facilities or other facilities constructed, renovated or expanded with funds for the grant program authorized under Section 18, Chapter 530, Laws of 1995.

(mm) Sales of tangible personal property and services to the Diabetes Foundation of Mississippi and the Mississippi Chapter of the Juvenile Diabetes Research Foundation.

(nn) Sales of potting soil, mulch, or other soil amendments used in growing ornamental plants which bear no fruit of commercial value when sold to commercial plant nurseries that operate exclusively at wholesale and where no retail sales can be made.

(oo) Sales of tangible personal property or services to the University of Mississippi Medical Center Research Development Foundation.

(pp) Sales of tangible personal property or services to Keep Mississippi Beautiful, Inc., and all affiliates of Keep Mississippi Beautiful, Inc.

(qq) Sales of tangible personal property or services to the Friends of Children's Hospital.

(rr) Sales of tangible personal property or services to the Pinecrest Weekend Snackpacks for Kids located in Corinth, Mississippi.

(ss) Sales of hearing aids when ordered or prescribed by a licensed physician, audiologist or hearing aid specialist for the medical purposes of a patient.

(tt) Sales exempt under the Facilitating Business Rapid Response to State Declared Disasters Act of 2015 (Sections 27-113-1 through 27-113-9).

(uu) Sales of lottery tickets by a retailer as authorized by Sections 1 and 2 of this act.

SECTION 22. This act shall take effect and be in force from and after July 1, 2018.

ST: Lottery; authorize and provide that net proceeds go to highways.