

By: Representative Hines

To: Gaming; Ways and Means

HOUSE BILL NO. 1078

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 THIRTY PERCENT OF THE
 11 MONIES COLLECTED FROM SUCH MONTHLY LICENSE FEES SHALL BE PLACED IN
 12 A 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 NINETY PERCENT OF THE MONIES
 17 COLLECTED FROM THE MANUFACTURER'S ANNUAL LICENSE SHALL BE
 18 DISTRIBUTED TO THE COUNTY IN WHICH THE LICENSEE IS LOCATED TO BE
 19 USED FOR LAW ENFORCEMENT PURPOSES AND JUVENILE SERVICES, WITH THE
 20 REMAINDER DISTRIBUTED TO THE MISSISSIPPI GAMING COMMISSION TO
 21 ENFORCE CERTAIN PROVISIONS OF THIS ACT; TO PROVIDE THAT FORTY
 22 PERCENT OF THE MONIES COLLECTED FROM ALL OTHER ANNUAL LICENSE FEES
 23 SHALL BE DEPOSITED INTO THE SPECIAL FUND TO BE USED BY THE
 24 GOVERNOR'S OFFICE - DIVISION OF MEDICAID, WITH THE REMAINING
 25 AMOUNT TO BE DEPOSITED IN THE STATE GENERAL FUND; TO AMEND
 26 SECTIONS 27-27-3, 75-76-5, 97-33-1, 97-33-7, 95-3-25, 67-1-71,
 27 87-1-5 AND 21-19-19, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 28 PROVISIONS OF THIS ACT; AND FOR RELATED 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 enforce
90 Sections 1 through 6 of this act in the same manner and according
91 to the same procedure, as nearly as is practicable, as provided
92 under Sections 75-76-1 through 75-76-313.

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 exceed 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) of this section shall be
156 deposited in the 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 subsection (1) of this section is later determined
168 to be greater or less than the amount actually reported and paid
169 by the licensee, 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) of
180 this act and used as set forth in the subsection. The remainder
181 of the revenue collected from such license fees shall be deposited
182 in the State 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) of this
185 act shall be distributed to the county in which the licensee is
186 located for any law enforcement purposes and juvenile services.
187 The remainder of the revenue collected from such license fees
188 shall be distributed to the Mississippi Gaming Commission for
189 purposes of enforcing gaming laws and defraying costs incurred by
190 the commission in 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 27-27-3, Mississippi Code of 1972, is
201 amended as follows:

202 27-27-3. The words, terms, and phrases, when used in this
203 article, shall have the meaning ascribed to them herein.

204 (a) "Slot amusement machine" or "machine" means any
205 mechanical device or contrivance which is operated, played,
206 worked, manipulated, or used by inserting or depositing any coin,
207 slug, token, or thing of value, in which may be seen any picture
208 or heard any music, or wherein any game may be played, or any form
209 of diversion had. "Slot amusement machine" or "machines" does not
210 mean any electronic device described in Sections 1 through 6 of
211 House Bill No. 1078, 2005 Regular Session.

212 (b) "Officer collecting the tax" means the tax
213 collector of the county, or, in the case of a municipality, the
214 person who collects the taxes for the municipality by whatever
215 title he may be known.

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

220 **SECTION 8.** Section 75-76-5, Mississippi Code of 1972, is
221 amended as follows:

222 75-76-5. As used in Sections 75-76-1 through 75-76-313,
223 unless the context requires otherwise:

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

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

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

245 (d) "Chairman," through September 30, 1993, means the
246 Chairman of the State Tax Commission, and thereafter means the
247 Chairman of the Mississippi Gaming Commission.

248 (e) "Commission" or "Mississippi Gaming Commission,"
249 through September 30, 1993, means the State Tax Commission, and
250 thereafter means the Mississippi Gaming Commission.

251 (f) "Commission member," through September 30, 1993,
252 means a member of the State Tax Commission, and thereafter means a
253 member of the Mississippi Gaming Commission.

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

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

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

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

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

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

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

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

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

299 (i) Boxmen;

- 300 (ii) Cashiers;
- 301 (iii) Change personnel;
- 302 (iv) Counting room personnel;
- 303 (v) Dealers;
- 304 (vi) Floormen;
- 305 (vii) Hosts or other persons empowered to extend
306 credit or complimentary services;
- 307 (viii) Keno runners;
- 308 (ix) Keno writers;
- 309 (x) Machine mechanics;
- 310 (xi) Security personnel;
- 311 (xii) Shift or pit bosses;
- 312 (xiii) Shills;
- 313 (xiv) Supervisors or managers; and
- 314 (xv) Ticket writers.

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

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

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

325 (p) "Gross revenue" means the total of all of the
326 following, less the total of all cash paid out as losses to
327 patrons and those amounts paid to purchase annuities to fund
328 losses paid to patrons over several years by independent financial
329 institutions:

- 330 (i) Cash received as winnings;
- 331 (ii) Cash received in payment for credit extended
332 by a licensee to a patron for purposes of gaming; and

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

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

338 The term does not include:

339 (i) Counterfeit money or tokens;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

391 (ii) A declaratory ruling;

392 (iii) An interagency memorandum;

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

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

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

399 (ff) "Slot machine" means any mechanical, electrical or
400 other device, contrivance or machine which, upon insertion of a
401 coin, token or similar object, or upon payment of any
402 consideration, is available to play or operate, the play or
403 operation of which, whether by reason of the skill of the operator
404 or application of the element of chance, or both, may deliver or
405 entitle the person playing or operating the machine to receive
406 cash, premiums, merchandise, tokens or anything of value, whether
407 the payoff is made automatically from the machine or in any other
408 manner. The term does not include any antique coin machine as
409 defined in Section 27-27-12.

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

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

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

419 (jj) "Work permit" means any card, certificate or
420 permit issued by the commission, whether denominated as a work
421 permit, registration card or otherwise, authorizing the employment
422 of the holder as a gaming employee. A document issued by any
423 governmental authority for any employment other than gaming is not
424 a valid work permit for the purposes of this chapter.

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

428 (ll) "Cheat" means to alter the selection of criteria
429 that determine:

430 (i) The rules of a game; or

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

432 **SECTION 9.** Section 97-33-1, Mississippi Code of 1972, is
433 amended as follows:

434 97-33-1. If any person shall encourage, promote or play at
435 any game, play or amusement, other than a fight or fighting match
436 between dogs, for money or other valuable thing, or shall wager or
437 bet, promote or encourage the wagering or betting of any money or
438 other valuable things, upon any game, play, amusement, cockfight,
439 Indian ball play, or duel, other than a fight or fighting match
440 between dogs, or upon the result of any election, event or
441 contingency whatever, upon conviction thereof, he shall be fined
442 in a sum not more than Five Hundred Dollars (\$500.00); and, unless
443 such fine and costs be immediately paid, shall be imprisoned for
444 any period not more than ninety (90) days. However, this section
445 shall not apply to betting, gaming or wagering:

446 (a) On a cruise vessel as defined in Section 27-109-1
447 whenever such vessel is in the waters within the State of
448 Mississippi, which lie adjacent to the State of Mississippi south
449 of the three (3) most southern counties in the State of
450 Mississippi, and in which the registered voters of the county in
451 which the port is located have not voted to prohibit such betting,
452 gaming or wagering on cruise vessels as provided in Section
453 19-3-79;

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

460 (c) That is legal under the laws of the State of
461 Mississippi.

462 This section shall not apply to electronic devices licensed
463 under the provisions of Sections 1 through 6 of House Bill No.
464 1078, 2005 Regular Session.

465 **SECTION 10.** Section 97-33-7, Mississippi Code of 1972, is
466 amended as follows:

467 97-33-7. (1) It shall be unlawful for any person or
468 persons, firm, copartnership, or corporation to have in
469 possession, own, control, display, or operate any cane rack, knife
470 rack, artful dodger, punch board, roll down, merchandise wheel,
471 slot machine, pinball machine, or similar device or devices.
472 Provided, however, that this section shall not be so construed as
473 to make unlawful the ownership, possession, control, display or
474 operation of any antique coin machine as defined in Section
475 27-27-12, or any music machine or bona fide automatic vending
476 machine where the purchaser receives exactly the same quantity of
477 merchandise on each operation of said machine. Any slot machine
478 other than an antique coin machine as defined in Section 27-27-12
479 which delivers, or is so constructed as that by operation thereof
480 it will deliver to the operator thereof anything of value in
481 varying quantities, in addition to the merchandise received, and
482 any slot machine other than an antique coin machine as defined in
483 Section 27-27-12 that is constructed in such manner as that slugs,
484 tokens, coins or similar devices are, or may be, used and
485 delivered to the operator thereof in addition to merchandise of
486 any sort contained in such machine, is hereby declared to be a
487 gambling device, and shall be deemed unlawful under the provisions
488 of this section. Provided, however, that pinball machines which
489 do not return to the operator or player thereof anything but free
490 additional games or plays shall not be deemed to be gambling
491 devices, and neither this section nor any other law shall be
492 construed to prohibit same.

493 (2) No property right shall exist in any person, natural or
494 artificial, or be vested in such person, in any or all of the
495 devices described herein that are not exempted from the provisions
496 of this section; and all such devices are hereby declared to be at
497 all times subject to confiscation and destruction, and their

498 possession shall be unlawful, except when in the possession of
499 officers carrying out the provisions of this section. It shall be
500 the duty of all law-enforcing officers to seize and immediately
501 destroy all such machines and devices.

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

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

517 (a) On a cruise vessel as defined in Section 27-109-1
518 whenever such vessel is in the waters within the State of
519 Mississippi, which lie adjacent to the State of Mississippi south
520 of the three (3) most southern counties in the State of
521 Mississippi, and in which the registered voters of the county in
522 which the port is located have not voted to prohibit such betting,
523 gaming or wagering on cruise vessels as provided in Section
524 19-3-79;

525 (b) On a vessel as defined in Section 27-109-1 whenever
526 such vessel is on the Mississippi River or navigable waters within
527 any county bordering on the Mississippi River, and in which the
528 registered voters of the county in which the port is located have
529 not voted to prohibit such betting, gaming or wagering on vessels
530 as provided in Section 19-3-79; or

531 (c) That is legal under the laws of the State of
532 Mississippi.

533 (5) Notwithstanding any provision of this section to the
534 contrary, it shall not be unlawful (a) to own, possess, repair or
535 control any gambling device, machine or equipment on board any
536 cruise vessel in this state of not less than one hundred fifty
537 (150) feet in overall length or vessel in this state of not less
538 than one hundred fifty (150) feet in overall length or on the
539 business premises appurtenant to any such cruise vessel or vessel
540 during any period of time in which such cruise vessel or vessel is
541 being constructed, repaired, maintained or operated in this state;
542 (b) to install any gambling device, machine or equipment on board
543 any cruise vessel in this state of not less than one hundred fifty
544 (150) feet in overall length or vessel in this state of not less
545 than one hundred fifty (150) feet in overall length; (c) to
546 possess or control any gambling device, machine or equipment
547 during the process of procuring or transporting such device,
548 machine or equipment for installation on any such cruise vessel or
549 vessel; or (d) to store in a warehouse or other storage facility
550 any gambling device, machine, equipment, or part thereof,
551 regardless of whether the county or municipality in which the
552 warehouse or storage facility is located has approved gaming
553 aboard cruise vessels or vessels, provided that such device,
554 machine or equipment is operated only in a county or municipality
555 that has approved gaming aboard cruise vessels or vessels. Any
556 gambling device, machine or equipment that is owned, possessed,
557 controlled, installed, procured, repaired, transported or stored
558 in accordance with this subsection shall not be subject to
559 confiscation, seizure or destruction, and any person, firm,
560 partnership or corporation which owns, possesses, controls,
561 installs, procures, repairs, transports or stores any gambling
562 device, machine or equipment in accordance with this subsection
563 shall not be subject to any prosecution or penalty under this

564 section. Any person constructing or repairing such cruise vessels
565 or vessels within a municipality shall comply with all municipal
566 ordinances protecting the general health or safety of the
567 residents of the municipality.

568 (6) This section shall not apply to electronic devices
569 licensed under the provisions of Sections 1 through 6 of House
570 Bill No. 1078, 2005 Regular Session.

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

573 95-3-25. Any building, club, vessel, boat, place or room,
574 wherein is kept or exhibited any game or gaming table, commonly
575 called A.B.C. or E.O. roulette, or rowley-powley, or rouquetnoir,
576 roredo, keno, monte, or any faro-bank, dice, or other game, gaming
577 table, or bank of the same or like kind, or any other kind or
578 description of gambling device under any other name whatever, and
579 any such place where information is furnished for the purpose of
580 making and settling bets or wagers on any horse race, prize fight,
581 or on the outcome of any like event, or where bets or wagers are
582 arranged for, made or settled, shall be deemed to be a common
583 nuisance and may be abated by writ of injunction, issued out of a
584 court of equity upon a bill filed in the name of the state by the
585 Attorney General, or any district or county attorney, whose duty
586 requires him to prosecute criminal cases on behalf of the state in
587 the county where the nuisance is maintained, or by any citizen or
588 citizens of such county, such bill to be filed in the county in
589 which the nuisance exists. And all rules of evidence and of
590 practice and procedure that pertain to courts of equity generally
591 in this state may be invoked and applied in any injunction
592 procedure hereunder. The provisions of this section shall not
593 apply to any form of gaming or gambling that is legal under the
594 laws of the State of Mississippi or to a cruise vessel or vessel
595 as defined in Section 27-109-1 and shall not apply to any cruise
596 vessel or vessel having on board any gambling device, machine or

597 equipment that is owned, possessed, controlled, installed,
598 procured, repaired or transported in accordance with subsection
599 (4) of Section 97-33-7. The provisions of this section shall not
600 apply to the legal operation of gaming electronic devices
601 authorized under Sections 1 through 6 of House Bill No. 1078, 2005
602 Regular Session.

603 Upon the abatement of any such nuisance, any person found to
604 be the owner, operator or exhibitor of any gambling device
605 described in the first paragraph of this section may be required
606 by the court to enter into a good and sufficient bond in such
607 amount as may be deemed proper by the court, to be conditioned
608 that the obligor therein will not violate any of the laws of
609 Mississippi pertaining to gaming or gambling for a period of not
610 to exceed two (2) years from the date thereof. The failure to
611 make such bond shall be a contempt of court and for such contempt
612 the person or party shall be confined in the county jail until
613 such bond is made, but not longer than two (2) years. Said bond
614 shall be approved by the clerk of the court where the proceedings
615 were had and shall be filed as a part of the record of such case.

616 **SECTION 12.** Section 67-1-71, Mississippi Code of 1972, is
617 amended as follows:

618 67-1-71. The commission may revoke or suspend any permit
619 issued by it for a violation by the permittee of any of the
620 provisions of this chapter or of the regulations promulgated under
621 it by the commission.

622 Permits must be revoked or suspended for the following
623 causes:

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

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

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

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

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

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

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

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

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

651 The provisions of paragraph (i) of this section shall not
652 apply to gambling or the presence of any gambling devices, with
653 knowledge of the permittee, on board a cruise vessel in the waters
654 within the State of Mississippi, which lie adjacent to the State
655 of Mississippi south of the three (3) most southern counties in
656 the State of Mississippi, or on any vessel as defined in Section
657 27-109-1 whenever such vessel is on the Mississippi River or
658 navigable waters within any county bordering on the Mississippi
659 River. The commission may, in its discretion, issue on-premises
660 retailer's permits to a common carrier of the nature described in
661 this paragraph. The provisions of paragraph (i) of this section

662 shall not apply to electronic devices licensed under the
663 provisions of Sections 1 through 6 of House Bill No. 1078, 2005
664 Regular Session.

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

668 In addition to the causes specified in this section and other
669 provisions of this chapter, the commission shall be authorized to
670 suspend the permit of any permit holder for being out of
671 compliance with an order for support, as defined in Section
672 93-11-153. The procedure for suspension of a permit for being out
673 of compliance with an order for support, and the procedure for the
674 reissuance or reinstatement of a permit suspended for that
675 purpose, and the payment of any fees for the reissuance or
676 reinstatement of a permit suspended for that purpose, shall be
677 governed by Section 93-11-157 or 93-11-163, as the case may be.
678 If there is any conflict between any provision of Section
679 93-11-157 or 93-11-163 and any provision of this chapter, the
680 provisions of Section 93-11-157 or 93-11-163, as the case may be,
681 shall control.

682 **SECTION 13.** Section 87-1-5, Mississippi Code of 1972, is
683 amended as follows:

684 87-1-5. If any person, by playing at any game whatever, or
685 by betting on the sides or hands of such as do play at any game,
686 or by betting on any horse race or cockfight, or at any other
687 sport or pastime, or by any wager whatever, shall lose any money,
688 property, or other valuable thing, real or personal, and shall pay
689 or deliver the same or any part thereof, the person so losing and
690 paying or delivering the same, or his wife or children, may sue
691 for and recover such money, property, or other valuable thing so
692 lost and paid or delivered, or any part thereof, from the person
693 knowingly receiving the same, with costs. However, this section
694 shall not apply to betting, gaming or wagering:

695 (a) On a cruise vessel as defined in Section 27-109-1
696 whenever such vessel is in the waters within the State of
697 Mississippi, which lie adjacent to the State of Mississippi south
698 of the three (3) most southern counties in the State of
699 Mississippi;

700 (b) On a vessel as defined in Section 27-109-1 whenever
701 such vessel is on the Mississippi River or navigable waters within
702 any county bordering on the Mississippi River; * * *

703 (c) That is legal under the laws of the State of
704 Mississippi; or

705 (d) In connection with the legal operation of gaming
706 electronic devices licensed under the provisions of Sections 1
707 through 6 of House Bill No. 1078, 2005 Regular Session.

708 **SECTION 14.** Section 21-19-19, Mississippi Code of 1972, is
709 amended as follows:

710 21-19-19. Except as otherwise provided in this section, the
711 governing authorities of municipalities shall have the power to
712 restrain, prohibit and suppress blind-tigers, bucket-shops,
713 slaughterhouses, houses of prostitution, disreputable houses,
714 games and gambling houses and rooms, dance houses and rooms, keno
715 rooms, and all kinds of indecency and other disorderly practices,
716 and disturbance of the peace, and to provide for the punishment of
717 the persons engaged therein.

718 This section shall not apply to the legal operation of
719 devices licensed under the provisions of Sections 1 through 6 of
720 House Bill No. 1078, 2005 Regular Session.

721 **SECTION 15.** This act shall take effect and be in force from
722 and after July 1, 2005.