

By: Representatives Peranich,
Bentz, Fredericks, Guice, Ishee,
Janus, Patterson, Simpson

To: Gaming; Sel Cmte on
Hurricane Recovery

HOUSE BILL NO. 36

1 AN ACT TO AMEND SECTIONS 87-1-5, 95-3-25, 97-33-1, 97-33-7,
2 97-33-17, 97-33-25 AND 97-33-27, MISSISSIPPI CODE OF 1972, TO
3 AUTHORIZE LEGAL GAMING IN STRUCTURES ON SHORE IN ANY OF THE THREE
4 MOST SOUTHERN COUNTIES IN THE STATE OF MISSISSIPPI IN WHICH
5 BETTING, GAMING OR WAGERING ON CRUISE VESSELS HAS NOT BEEN
6 PROHIBITED AS PROVIDED IN SECTION 19-3-79, IF NO PART OF THE
7 STRUCTURE IS LOCATED MORE THAN 800 FEET FROM A SEAWALL EXISTING ON
8 THE EFFECTIVE DATE OF THIS ACT, OR, IF THERE IS NO SEAWALL, NO
9 MORE THAN 800 FEET FROM THE MEAN HIGH-WATER LINE OF THE WATERS
10 WITHIN THE STATE OF MISSISSIPPI WHICH LIE ADJACENT TO THE STATE OF
11 MISSISSIPPI SOUTH OF SUCH COUNTIES AND THE STRUCTURE IS LOCATED ON
12 LAND THAT, EXCLUDING EASEMENTS AND RIGHTS OF WAY FOR PUBLIC
13 STREETS AND HIGHWAYS, IS CONTIGUOUS TO THE LANDS ABUTTED BY SUCH
14 SEAWALL OR MEAN HIGH-WATER LINE; TO AMEND SECTION 75-76-33,
15 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
16 PURPOSES.

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

18 **SECTION 1.** Section 87-1-5, Mississippi Code of 1972, is
19 amended as follows:

20 87-1-5. If any person, by playing at any game whatever, or
21 by betting on the sides or hands of such as do play at any game,
22 or by betting on any horse race or cockfight, or at any other
23 sport or pastime, or by any wager whatever, shall lose any money,
24 property, or other valuable thing, real or personal, and shall pay
25 or deliver the same or any part thereof, the person so losing and
26 paying or delivering the same, or his wife or children, may sue
27 for and recover such money, property, or other valuable thing so
28 lost and paid or delivered, or any part thereof, from the person
29 knowingly receiving the same, with costs. However, this section
30 shall not apply to betting, gaming or wagering:

31 (a) On a cruise vessel as defined in Section 27-109-1
32 whenever such vessel is in the waters within the State of
33 Mississippi, which lie adjacent to the State of Mississippi south

34 of the three (3) most southern counties in the State of
35 Mississippi;

36 (b) In a structure in such a county that is located on
37 land that, excluding easements and rights of way for public
38 streets and highways, is contiguous to land abutted by a seawall
39 existing on the effective date of this act, or, if there is no
40 seawall, the mean high-water line (as defined in Section 29-15-1)
41 of the waters within the State of Mississippi, which lie adjacent
42 to the State of Mississippi south of the three (3) most southern
43 counties in the State of Mississippi, if no part of the structure
44 is located more than eight hundred (800) feet from such seawall or
45 mean high-water line;

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

49 (d) That is legal under the laws of the State of
50 Mississippi.

51 **SECTION 2.** Section 95-3-25, Mississippi Code of 1972, is
52 amended as follows:

53 95-3-25. Any building, club, vessel, boat, place or room,
54 wherein is kept or exhibited any game or gaming table, commonly
55 called A.B.C. or E.O. roulette, or rowley-powley, or rouquetnoir,
56 roredo, keno, monte, or any faro-bank, dice, or other game, gaming
57 table, or bank of the same or like kind, or any other kind or
58 description of gambling device under any other name whatever, and
59 any such place where information is furnished for the purpose of
60 making and settling bets or wagers on any horse race, prize fight,
61 or on the outcome of any like event, or where bets or wagers are
62 arranged for, made or settled, shall be deemed to be a common
63 nuisance and may be abated by writ of injunction, issued out of a
64 court of equity upon a bill filed in the name of the state by the
65 Attorney General, or any district or county attorney, whose duty
66 requires him to prosecute criminal cases on behalf of the state in

67 the county where the nuisance is maintained, or by any citizen or
68 citizens of such county, such bill to be filed in the county in
69 which the nuisance exists. And all rules of evidence and of
70 practice and procedure that pertain to courts of equity generally
71 in this state may be invoked and applied in any injunction
72 procedure hereunder. The provisions of this section shall not
73 apply to any form of gaming or gambling that is legal under the
74 laws of the State of Mississippi or to a licensed gaming
75 establishment and shall not apply to any licensed gaming
76 establishment having on its premises any gambling device, machine
77 or equipment that is owned, possessed, controlled, installed,
78 procured, repaired or transported in accordance with subsection
79 (4) of Section 97-33-7.

80 Upon the abatement of any such nuisance, any person found to
81 be the owner, operator or exhibitor of any gambling device
82 described in the first paragraph of this section may be required
83 by the court to enter into a good and sufficient bond in such
84 amount as may be deemed proper by the court, to be conditioned
85 that the obligor therein will not violate any of the laws of
86 Mississippi pertaining to gaming or gambling for a period of not
87 to exceed two (2) years from the date thereof. The failure to
88 make such bond shall be a contempt of court and for such contempt
89 the person or party shall be confined in the county jail until
90 such bond is made, but not longer than two (2) years. Said bond
91 shall be approved by the clerk of the court where the proceedings
92 were had and shall be filed as a part of the record of such case.

93 **SECTION 3.** Section 97-33-1, Mississippi Code of 1972, is
94 amended as follows:

95 97-33-1. If any person shall encourage, promote or play at
96 any game, play or amusement, other than a fight or fighting match
97 between dogs, for money or other valuable thing, or shall wager or
98 bet, promote or encourage the wagering or betting of any money or
99 other valuable things, upon any game, play, amusement, cockfight,

100 Indian ball play or duel, other than a fight or fighting match
101 between dogs, or upon the result of any election, event or
102 contingency whatever, upon conviction thereof, he shall be fined
103 in a sum not more than Five Hundred Dollars (\$500.00); and, unless
104 such fine and costs be immediately paid, shall be imprisoned for
105 any period not more than ninety (90) days. However, this section
106 shall not apply to betting, gaming or wagering:

107 (a) On a cruise vessel as defined in Section 27-109-1
108 whenever such vessel is in the waters within the State of
109 Mississippi, which lie adjacent to the State of Mississippi south
110 of the three (3) most southern counties in the State of
111 Mississippi, and in which the registered voters of the county in
112 which the port is located have not voted to prohibit such betting,
113 gaming or wagering on cruise vessels as provided in Section
114 19-3-79;

115 (b) In a structure on shore in any of the three (3)
116 most southern counties in the State of Mississippi in which the
117 registered voters of the county have not voted to prohibit such
118 betting, gaming or wagering on cruise vessels as provided in
119 Section 19-3-79, if:

120 (i) No part of the structure is located more than
121 eight hundred (800) feet from a seawall existing on the effective
122 date of this act, or, if there is no seawall, no more than eight
123 hundred (800) feet from the mean high-water line (as defined in
124 Section 29-15-1) of the waters within the State of Mississippi,
125 which lie adjacent to the State of Mississippi south of the three
126 (3) most southern counties in the State of Mississippi; and

127 (ii) The structure is located on land that,
128 excluding easements and rights of way for public streets and
129 highways, is contiguous to the lands abutted by such seawall or
130 mean high-water line;

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

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

137 (d) That is legal under the laws of the State of
138 Mississippi.

139 **SECTION 4.** Section 97-33-7, Mississippi Code of 1972, is
140 amended as follows:

141 97-33-7. (1) It shall be unlawful for any person or
142 persons, firm, copartnership or corporation to have in possession,
143 own, control, display, or operate any cane rack, knife rack,
144 artful dodger, punch board, roll down, merchandise wheel, slot
145 machine, pinball machine, or similar device or devices. Provided,
146 however, that this section shall not be so construed as to make
147 unlawful the ownership, possession, control, display or operation
148 of any antique coin machine as defined in Section 27-27-12, or any
149 music machine or bona fide automatic vending machine where the
150 purchaser receives exactly the same quantity of merchandise on
151 each operation of said machine. Any slot machine other than an
152 antique coin machine as defined in Section 27-27-12 which
153 delivers, or is so constructed as that by operation thereof it
154 will deliver to the operator thereof anything of value in varying
155 quantities, in addition to the merchandise received, and any slot
156 machine other than an antique coin machine as defined in Section
157 27-27-12 that is constructed in such manner as that slugs, tokens,
158 coins or similar devices are, or may be, used and delivered to the
159 operator thereof in addition to merchandise of any sort contained
160 in such machine, is hereby declared to be a gambling device, and
161 shall be deemed unlawful under the provisions of this section.
162 Provided, however, that pinball machines which do not return to
163 the operator or player thereof anything but free additional games
164 or plays shall not be deemed to be gambling devices, and neither

165 this section nor any other law shall be construed to prohibit
166 same.

167 (2) No property right shall exist in any person, natural or
168 artificial, or be vested in such person, in any or all of the
169 devices described herein that are not exempted from the provisions
170 of this section; and all such devices are hereby declared to be at
171 all times subject to confiscation and destruction, and their
172 possession shall be unlawful, except when in the possession of
173 officers carrying out the provisions of this section. It shall be
174 the duty of all law-enforcing officers to seize and immediately
175 destroy all such machines and devices.

176 (3) A first violation of the provisions of this section
177 shall be deemed a misdemeanor, and the party offending shall, upon
178 conviction, be fined in any sum not exceeding Five Hundred Dollars
179 (\$500.00), or imprisoned not exceeding three (3) months, or both,
180 in the discretion of the court. In the event of a second
181 conviction for a violation of any of the provisions of this
182 section, the party offending shall be subject to a sentence of not
183 less than six (6) months in the county jail, nor more than two (2)
184 years in the State Penitentiary, in the discretion of the trial
185 court.

186 (4) Notwithstanding any provision of this section to the
187 contrary, it shall not be unlawful to operate any equipment or
188 device described in subsection (1) of this section or any gaming,
189 gambling or similar device or devices by whatever name called
190 while:

191 (a) On a cruise vessel as defined in Section 27-109-1
192 whenever such vessel is in the waters within the State of
193 Mississippi, which lie adjacent to the State of Mississippi south
194 of the three (3) most southern counties in the State of
195 Mississippi, and in which the registered voters of the county in
196 which the port is located have not voted to prohibit such betting,

197 gaming or wagering on cruise vessels as provided in Section
198 19-3-79;

199 (b) In a structure on shore in any of the three (3)
200 most southern counties in the State of Mississippi in which the
201 registered voters of the county have not voted to prohibit such
202 betting, gaming or wagering on cruise vessels as provided in
203 Section 19-3-79, if:

204 (i) No part of the structure is located more than
205 eight hundred (800) feet from a seawall existing on the effective
206 date of this act, or, if there is no seawall, no more than eight
207 hundred (800) feet from the mean high-water line (as defined in
208 Section 29-15-1) of the waters within the State of Mississippi,
209 which lie adjacent to the State of Mississippi south of the three
210 (3) most southern counties in the State of Mississippi; and

211 (ii) The structure is located on land that,
212 excluding easements and rights of way for public streets and
213 highways, is contiguous to the lands abutted by such seawall or
214 mean high-water line;

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

221 (d) That is legal under the laws of the State of
222 Mississippi.

223 (5) Notwithstanding any provision of this section to the
224 contrary, it shall not be unlawful (a) to own, possess, repair or
225 control any gambling device, machine or equipment in a licensed
226 gaming establishment or on the business premises appurtenant to
227 any such licensed gaming establishment during any period of time
228 in which such licensed gaming establishment is being constructed,
229 repaired, maintained or operated in this state; (b) to install any

230 gambling device, machine or equipment in any licensed gaming
231 establishment; (c) to possess or control any gambling device,
232 machine or equipment during the process of procuring or
233 transporting such device, machine or equipment for installation on
234 any such licensed gaming establishment; or (d) to store in a
235 warehouse or other storage facility any gambling device, machine,
236 equipment, or part thereof, regardless of whether the county or
237 municipality in which the warehouse or storage facility is located
238 has approved gaming aboard cruise vessels or vessels, provided
239 that such device, machine or equipment is operated only in a
240 county or municipality that has approved gaming aboard cruise
241 vessels or vessels. Any gambling device, machine or equipment
242 that is owned, possessed, controlled, installed, procured,
243 repaired, transported or stored in accordance with this subsection
244 shall not be subject to confiscation, seizure or destruction, and
245 any person, firm, partnership or corporation which owns,
246 possesses, controls, installs, procures, repairs, transports or
247 stores any gambling device, machine or equipment in accordance
248 with this subsection shall not be subject to any prosecution or
249 penalty under this section. Any person constructing or repairing
250 such cruise vessels or vessels within a municipality shall comply
251 with all municipal ordinances protecting the general health or
252 safety of the residents of the municipality.

253 **SECTION 5.** Section 97-33-17, Mississippi Code of 1972, is
254 amended as follows:

255 97-33-17. (1) All monies exhibited for the purpose of
256 betting or alluring persons to bet at any game, and all monies
257 staked or betted, shall be liable to seizure by any sheriff,
258 constable, or police officer, together with all the appliances
259 used or kept for use in gambling, or by any other person; and all
260 the monies so seized shall be accounted for by the person making
261 the seizure, and all appliances seized shall be destroyed;

262 provided, however, this section shall not apply to betting, gaming
263 or wagering on:

264 (a) A cruise vessel as defined in Section 27-109-1
265 whenever such vessel is in the waters within the State of
266 Mississippi, which lie adjacent to the State of Mississippi south
267 of the three (3) most southern counties in the State of
268 Mississippi, and in which the registered voters of the county in
269 which the port is located have not voted to prohibit such betting,
270 gaming or wagering on cruise vessels as provided in Section
271 19-3-79;

272 (b) In a structure on shore in any of the three (3)
273 most southern counties in the State of Mississippi in which the
274 registered voters of the county have not voted to prohibit such
275 betting, gaming or wagering on cruise vessels as provided in
276 Section 19-3-79, if:

277 (i) No part of the structure is located more than
278 eight hundred (800) feet from a seawall existing on the effective
279 date of this act, or, if there is no seawall, no more than eight
280 hundred (800) feet from the mean high-water line (as defined in
281 Section 29-15-1) of the waters within the State of Mississippi,
282 which lie adjacent to the State of Mississippi south of the three
283 (3) most southern counties in the State of Mississippi; and

284 (ii) The structure is located on land that,
285 excluding easements and rights of way for public streets and
286 highways, is contiguous to the lands abutted by such seawall or
287 mean high-water line;

288 (c) A vessel as defined in Section 27-109-1 whenever
289 such vessel is on the Mississippi River or navigable waters within
290 any county bordering on the Mississippi River, and in which the
291 registered voters of the county in which the port is located have
292 not voted to prohibit such betting, gaming or wagering on vessels
293 as provided in Section 19-3-79; or

294 (d) That is legal under the laws of the State of
295 Mississippi.

296 (2) Nothing in this section shall apply to any gambling
297 device, machine or equipment that is owned, possessed, controlled,
298 installed, procured, repaired or transported in accordance with
299 subsection (4) of Section 97-33-7.

300 **SECTION 6.** Section 97-33-25, Mississippi Code of 1972, is
301 amended as follows:

302 97-33-25. If any person shall sell or buy, either directly
303 or indirectly, any chance in what is commonly called pool, upon
304 any event whatever, or shall in any manner engage in such business
305 or pastime, he shall be fined not more than Five Hundred Dollars
306 (\$500.00) or shall be imprisoned in the county jail not more than
307 ninety (90) days; provided, however, this section shall not apply
308 to betting, gaming or wagering:

309 (a) On a cruise vessel as defined in Section 27-109-1
310 whenever such vessel is in the waters within the State of
311 Mississippi, which lie adjacent to the State of Mississippi south
312 of the three (3) most southern counties in the State of
313 Mississippi, and in which the registered voters of the county in
314 which the port is located have not voted to prohibit such betting,
315 gaming or wagering on cruise vessels as provided in Section
316 19-3-79;

317 (b) In a structure on shore in any of the three (3)
318 most southern counties in the State of Mississippi in which the
319 registered voters of the county have not voted to prohibit such
320 betting, gaming or wagering on cruise vessels as provided in
321 Section 19-3-79, if:

322 (i) No part of the structure is located more than
323 eight hundred (800) feet from a seawall existing on the effective
324 date of this act, or, if there is no seawall, no more than eight
325 hundred (800) feet from the mean high-water line (as defined in
326 Section 29-15-1) of the waters within the State of Mississippi,

327 which lie adjacent to the State of Mississippi south of the three
328 (3) most southern counties in the State of Mississippi; and

329 (ii) The structure is located on land that,
330 excluding easements and rights of way for public streets and
331 highways, is contiguous to the lands abutted by such seawall or
332 mean high-water line;

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

339 (d) That is legal under the laws of the State of
340 Mississippi.

341 **SECTION 7.** Section 97-33-27, Mississippi Code of 1972, is
342 amended as follows:

343 97-33-27. If any person shall bet on a horse race or a yacht
344 race or on a shooting match, he shall be fined not more than Five
345 Hundred Dollars (\$500.00), and, unless the fine and costs be
346 immediately paid, he shall be imprisoned in the county jail not
347 more than ninety (90) days; provided, however, this section shall
348 not apply to betting, gaming or wagering:

349 (a) On a cruise vessel as defined in Section 27-109-1
350 whenever such vessel is in the waters within the State of
351 Mississippi, which lie adjacent to the State of Mississippi south
352 of the three (3) most southern counties in the State of
353 Mississippi, and in which the registered voters of the county in
354 which the port is located have not voted to prohibit such betting,
355 gaming or wagering on cruise vessels as provided in Section
356 19-3-79;

357 (b) In a structure on shore in any of the three (3)
358 most southern counties in the State of Mississippi in which the
359 registered voters of the county have not voted to prohibit such

360 betting, gaming or wagering on cruise vessels as provided in
361 Section 19-3-79, if:

362 (i) No part of the structure is located more than
363 eight hundred (800) feet from a seawall existing on the effective
364 date of this act, or, if there is no seawall, no more than eight
365 hundred (800) feet from the mean high-water line (as defined in
366 Section 29-15-1) of the waters within the State of Mississippi,
367 which lie adjacent to the State of Mississippi south of the three
368 (3) most southern counties in the State of Mississippi; and

369 (ii) The structure is located on land that,
370 excluding easements and rights of way for public streets and
371 highways, is contiguous to the lands abutted by such seawall or
372 mean high-water line;

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

379 (d) That is legal under the laws of the State of
380 Mississippi.

381 **SECTION 8.** Section 75-76-33, Mississippi Code of 1972, is
382 amended as follows:

383 75-76-33. (1) The commission shall, from time to time,
384 adopt, amend or repeal such regulations, consistent with the
385 policy, objects and purposes of this chapter, as it may deem
386 necessary or desirable in the public interest in carrying out the
387 policy and provisions of this chapter.

388 (2) These regulations shall, without limiting the general
389 powers herein conferred, include the following:

390 (a) Prescribing the method and form of application
391 which any applicant for a license or for a manufacturer's,
392 seller's or distributor's license must follow and complete before

393 consideration of his application by the executive director or the
394 commission.

395 (b) Prescribing the information to be furnished by any
396 applicant or licensee concerning his antecedents, habits,
397 character, associates, criminal record, business activities and
398 financial affairs, past or present.

399 (c) Prescribing the information to be furnished by a
400 licensee relating to his employees.

401 (d) Requiring fingerprinting of an applicant or
402 licensee, and gaming employees of a licensee, or other methods of
403 identification and the forwarding of all fingerprints taken
404 pursuant to regulation of the Federal Bureau of Investigation.

405 (e) Prescribing the manner and procedure of all
406 hearings conducted by the commission or any hearing examiner of
407 the commission, including special rules of evidence applicable
408 thereto and notices thereof.

409 (f) Requiring any applicant to pay all or any part of
410 the fees and costs of investigation of such applicant as may be
411 determined by the commission, except that no applicant for an
412 initial license shall be required to pay any part of the fees or
413 costs of the investigation of the applicant with regard to the
414 initial license.

415 (g) Prescribing the manner and method of collection and
416 payment of fees and issuance of licenses.

417 (h) Prescribing under what conditions a licensee may be
418 deemed subject to revocation or suspension of his license.

419 (i) Requiring any applicant or licensee to waive any
420 privilege with respect to any testimony at any hearing or meeting
421 of the commission, except any privilege afforded by the
422 Constitution of the United States or this state.

423 (j) Defining and limiting the area, games and devices
424 permitted, and the method of operation of such games and devices,
425 for the purposes of this chapter.

426 (k) Prescribing under what conditions the nonpayment of
427 a gambling debt by a licensee shall be deemed grounds for
428 revocation or suspension of his license.

429 (l) Governing the use and approval of gambling devices
430 and equipment.

431 (m) Prescribing the qualifications of, and the
432 conditions under which, attorneys, accountants and others are
433 permitted to practice before the commission.

434 (n) Restricting access to confidential information
435 obtained under this chapter and ensuring that the confidentiality
436 of such information is maintained and protected.

437 (o) Prescribing the manner and procedure by which the
438 executive director on behalf of the commission shall notify a
439 county or a municipality wherein an applicant for a license
440 desires to locate.

441 (p) Prescribing the manner and procedure for an
442 objection to be filed with the commission and the executive
443 director by a county or municipality wherein an applicant for a
444 license desires to locate.

445 (3) Notwithstanding any other provision of law, each
446 licensee shall be required to comply with the following
447 regulations:

448 (a) No wagering shall be allowed on the outcome of any
449 athletic event, nor on any matter to be determined during an
450 athletic event, nor on the outcome of any event which does not
451 take place on the premises.

452 (b) No wager may be placed by, or on behalf of, any
453 individual or entity or group, not present on a licensed gaming
454 establishment.

455 **SECTION 9.** This act shall take effect and be in force from
456 and after its passage.