

By: Senator(s) Kirby

To: Finance

SENATE BILL NO. 2047

1 AN ACT TO AMEND SECTIONS 87-1-5, 97-33-1, 97-33-7, 97-33-17,
2 97-33-25 AND 97-33-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
3 THE LOCATION OF U.S. HIGHWAY 90 FOR PURPOSES OF THE GAMING LAWS
4 SHALL BE THE LOCATION OF SUCH HIGHWAY AS OF OCTOBER 17, 2005; AND
5 FOR RELATED PURPOSES.

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

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

9 87-1-5. If any person, by playing at any game whatever, or
10 by betting on the sides or hands of such as do play at any game,
11 or by betting on any horse race or cockfight, or at any other
12 sport or pastime, or by any wager whatever, shall lose any money,
13 property, or other valuable thing, real or personal, and shall pay
14 or deliver the same or any part thereof, the person so losing and
15 paying or delivering the same, or his wife or children, may sue
16 for and recover such money, property, or other valuable thing so
17 lost and paid or delivered, or any part thereof, from the person
18 knowingly receiving the same, with costs. However, this section
19 shall not apply to betting, gaming or wagering:

20 (a) On a cruise vessel as defined in Section 27-109-1
21 whenever such vessel is in the waters within the State of
22 Mississippi, which lie adjacent to the State of Mississippi south
23 of the three (3) most southern counties in the State of
24 Mississippi, including the Mississippi Sound, St. Louis Bay,
25 Biloxi Bay and Pascagoula Bay;

26 (b) In a structure located in whole or in part on shore
27 in any of the three (3) most southern counties in the State of
28 Mississippi in which the registered voters of the county have

29 voted to allow such betting, gaming or wagering on cruise vessels
30 as provided in Section 19-3-79, if:

31 (i) The structure is owned, leased or controlled
32 by a person possessing a gaming license, as defined in Section
33 75-76-5, to conduct legal gaming on a cruise vessel under
34 paragraph (a) of this section;

35 (ii) The part of the structure in which licensed
36 gaming activities are conducted is located entirely in an area
37 which is located no more than eight hundred (800) feet from the
38 mean high-water line (as defined in Section 29-15-1) of the waters
39 within the State of Mississippi, which lie adjacent to the State
40 of Mississippi south of the three (3) most southern counties in
41 the State of Mississippi, including the Mississippi Sound, St.
42 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
43 Harrison County only, no farther north than the southern boundary
44 of the right-of-way for U.S. Highway 90, as such highway existed
45 on October 17, 2005, whichever is greater; and

46 (iii) In the case of a structure that is located
47 in whole or part on shore, the part of the structure in which
48 licensed gaming activities are conducted shall lie adjacent to
49 state waters south of the three (3) most southern counties in the
50 State of Mississippi, including the Mississippi Sound, St. Louis
51 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
52 structure is located consists of a parcel of real property,
53 easements and rights-of-way for public streets and highways shall
54 not be construed to interrupt the contiguous nature of the parcel,
55 nor shall the footage contained within the easements and
56 rights-of-way be counted in the calculation of the distances
57 specified in subparagraph (ii).

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

61 (d) That is legal under the laws of the State of
62 Mississippi.

63 **SECTION 2.** Section 97-33-1, Mississippi Code of 1972, is
64 amended as follows:

65 97-33-1. If any person shall encourage, promote or play at
66 any game, play or amusement, other than a fight or fighting match
67 between dogs, for money or other valuable thing, or shall wager or
68 bet, promote or encourage the wagering or betting of any money or
69 other valuable things, upon any game, play, amusement, cockfight,
70 Indian ball play or duel, other than a fight or fighting match
71 between dogs, or upon the result of any election, event or
72 contingency whatever, upon conviction thereof, he shall be fined
73 in a sum not more than Five Hundred Dollars (\$500.00); and, unless
74 such fine and costs be immediately paid, shall be imprisoned for
75 any period not more than ninety (90) days. However, this section
76 shall not apply to betting, gaming or wagering:

77 (a) On a cruise vessel as defined in Section 27-109-1
78 whenever such vessel is in the waters within the State of
79 Mississippi, which lie adjacent to the State of Mississippi south
80 of the three (3) most southern counties in the State of
81 Mississippi, including the Mississippi Sound, St. Louis Bay,
82 Biloxi Bay and Pascagoula Bay, and in which the registered voters
83 of the county in which the port is located have not voted to
84 prohibit such betting, gaming or wagering on cruise vessels as
85 provided in Section 19-3-79;

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

91 (i) The structure is owned, leased or controlled
92 by a person possessing a gaming license, as defined in Section

93 75-76-5, to conduct legal gaming on a cruise vessel under
94 paragraph (a) of this section;

95 (ii) The part of the structure in which licensed
96 gaming activities are conducted is located entirely in an area
97 which is located no more than eight hundred (800) feet from the
98 mean high-water line (as defined in Section 29-15-1) of the waters
99 within the State of Mississippi, which lie adjacent to the State
100 of Mississippi south of the three (3) most southern counties in
101 the State of Mississippi, including the Mississippi Sound, St.
102 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
103 Harrison County only, no farther north than the southern boundary
104 of the right-of-way for U.S. Highway 90, as such highway existed
105 on October 17, 2005, whichever is greater; and

106 (iii) In the case of a structure that is located
107 in whole or part on shore, the part of the structure in which
108 licensed gaming activities are conducted shall lie adjacent to
109 state waters south of the three (3) most southern counties in the
110 State of Mississippi, including the Mississippi Sound, St. Louis
111 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
112 structure is located consists of a parcel of real property,
113 easements and rights-of-way for public streets and highways shall
114 not be construed to interrupt the contiguous nature of the parcel,
115 nor shall the footage contained within the easements and
116 rights-of-way be counted in the calculation of the distances
117 specified in subparagraph (ii).

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

124 (d) That is legal under the laws of the State of
125 Mississippi.

126 **SECTION 3.** Section 97-33-7, Mississippi Code of 1972, is
127 amended as follows:

128 97-33-7. (1) It shall be unlawful for any person or
129 persons, firm, copartnership or corporation to have in possession,
130 own, control, display, or operate any cane rack, knife rack,
131 artful dodger, punch board, roll down, merchandise wheel, slot
132 machine, pinball machine, or similar device or devices. Provided,
133 however, that this section shall not be so construed as to make
134 unlawful the ownership, possession, control, display or operation
135 of any antique coin machine as defined in Section 27-27-12, or any
136 music machine or bona fide automatic vending machine where the
137 purchaser receives exactly the same quantity of merchandise on
138 each operation of said machine. Any slot machine other than an
139 antique coin machine as defined in Section 27-27-12 which
140 delivers, or is so constructed as that by operation thereof it
141 will deliver to the operator thereof anything of value in varying
142 quantities, in addition to the merchandise received, and any slot
143 machine other than an antique coin machine as defined in Section
144 27-27-12 that is constructed in such manner as that slugs, tokens,
145 coins or similar devices are, or may be, used and delivered to the
146 operator thereof in addition to merchandise of any sort contained
147 in such machine, is hereby declared to be a gambling device, and
148 shall be deemed unlawful under the provisions of this section.
149 Provided, however, that pinball machines which do not return to
150 the operator or player thereof anything but free additional games
151 or plays shall not be deemed to be gambling devices, and neither
152 this section nor any other law shall be construed to prohibit
153 same.

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

159 possession shall be unlawful, except when in the possession of
160 officers carrying out the provisions of this section. It shall be
161 the duty of all law-enforcing officers to seize and immediately
162 destroy all such machines and devices.

163 (3) A first violation of the provisions of this section
164 shall be deemed a misdemeanor, and the party offending shall, upon
165 conviction, be fined in any sum not exceeding Five Hundred Dollars
166 (\$500.00), or imprisoned not exceeding three (3) months, or both,
167 in the discretion of the court. In the event of a second
168 conviction for a violation of any of the provisions of this
169 section, the party offending shall be subject to a sentence of not
170 less than six (6) months in the county jail, nor more than two (2)
171 years in the State Penitentiary, in the discretion of the trial
172 court.

173 (4) Notwithstanding any provision of this section to the
174 contrary, it shall not be unlawful to operate any equipment or
175 device described in subsection (1) of this section or any gaming,
176 gambling or similar device or devices by whatever name called
177 while:

178 (a) On a cruise vessel as defined in Section 27-109-1
179 whenever such vessel is in the waters within the State of
180 Mississippi, which lie adjacent to the State of Mississippi south
181 of the three (3) most southern counties in the State of
182 Mississippi, including the Mississippi Sound, St. Louis Bay,
183 Biloxi Bay and Pascagoula Bay, and in which the registered voters
184 of the county in which the port is located have not voted to
185 prohibit such betting, gaming or wagering on cruise vessels as
186 provided in Section 19-3-79;

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

192 (i) The structure is owned, leased or controlled
193 by a person possessing a gaming license, as defined in Section
194 75-76-5, to conduct legal gaming on a cruise vessel under
195 paragraph (a) of this subsection;

196 (ii) The part of the structure in which licensed
197 gaming activities are conducted is located entirely in an area
198 which is located no more than eight hundred (800) feet from the
199 mean high-water line (as defined in Section 29-15-1) of the waters
200 within the State of Mississippi, which lie adjacent to the State
201 of Mississippi south of the three (3) most southern counties in
202 the State of Mississippi, including the Mississippi Sound, St.
203 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
204 Harrison County only, no farther north than the southern boundary
205 of the right-of-way for U.S. Highway 90, as such highway existed
206 on October 17, 2005, whichever is greater; and

207 (iii) In the case of a structure that is located
208 in whole or part on shore, the part of the structure in which
209 licensed gaming activities are conducted shall lie adjacent to
210 state waters south of the three (3) most southern counties in the
211 State of Mississippi, including the Mississippi Sound, St. Louis
212 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
213 structure is located consists of a parcel of real property,
214 easements and rights-of-way for public streets and highways shall
215 not be construed to interrupt the contiguous nature of the parcel,
216 nor shall the footage contained within the easements and
217 rights-of-way be counted in the calculation of the distances
218 specified in subparagraph (ii).

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

225 (d) That is legal under the laws of the State of
226 Mississippi.

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

257 **SECTION 4.** Section 97-33-17, Mississippi Code of 1972, is
258 amended as follows:

259 97-33-17. (1) All monies exhibited for the purpose of
260 betting or alluring persons to bet at any game, and all monies
261 staked or betted, shall be liable to seizure by any sheriff,
262 constable, or police officer, together with all the appliances
263 used or kept for use in gambling, or by any other person; and all
264 the monies so seized shall be accounted for by the person making
265 the seizure, and all appliances seized shall be destroyed;
266 provided, however, this section shall not apply to betting, gaming
267 or wagering on:

268 (a) A cruise vessel as defined in Section 27-109-1
269 whenever such vessel is in the waters within the State of
270 Mississippi, which lie adjacent to the State of Mississippi south
271 of the three (3) most southern counties in the State of
272 Mississippi, including the Mississippi Sound, St. Louis Bay,
273 Biloxi Bay and Pascagoula Bay, and in which the registered voters
274 of the county in which the port is located have not voted to
275 prohibit such betting, gaming or wagering on cruise vessels as
276 provided in Section 19-3-79;

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

282 (i) The structure is owned, leased or controlled
283 by a person possessing a gaming license, as defined in Section
284 75-76-5, to conduct legal gaming on a cruise vessel under
285 paragraph (a) of this subsection;

286 (ii) The part of the structure in which licensed
287 gaming activities are conducted is located entirely in an area
288 which is located no more than eight hundred (800) feet from the
289 mean high-water line (as defined in Section 29-15-1) of the waters

290 within the State of Mississippi, which lie adjacent to the State
291 of Mississippi south of the three (3) most southern counties in
292 the State of Mississippi, including the Mississippi Sound, St.
293 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
294 Harrison County only, no farther north than the southern boundary
295 of the right-of-way for U.S. Highway 90, as such highway existed
296 on October 17, 2005, whichever is greater; and

297 (iii) In the case of a structure that is located
298 in whole or part on shore, the part of the structure in which
299 licensed gaming activities are conducted shall lie adjacent to
300 state waters south of the three (3) most southern counties in the
301 State of Mississippi, including the Mississippi Sound, St. Louis
302 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
303 structure is located consists of a parcel of real property,
304 easements and rights-of-way for public streets and highways shall
305 not be construed to interrupt the contiguous nature of the parcel,
306 nor shall the footage contained within the easements and
307 rights-of-way be counted in the calculation of the distances
308 specified in subparagraph (ii).

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

315 (d) That is legal under the laws of the State of
316 Mississippi.

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

321 **SECTION 5.** Section 97-33-25, Mississippi Code of 1972, is
322 amended as follows:

323 97-33-25. If any person shall sell or buy, either directly
324 or indirectly, any chance in what is commonly called pool, upon
325 any event whatever, or shall in any manner engage in such business
326 or pastime, he shall be fined not more than Five Hundred Dollars
327 (\$500.00) or shall be imprisoned in the county jail not more than
328 ninety (90) days; provided, however, this section shall not apply
329 to betting, gaming or wagering:

330 (a) On a cruise vessel as defined in Section 27-109-1
331 whenever such vessel is in the waters within the State of
332 Mississippi, which lie adjacent to the State of Mississippi south
333 of the three (3) most southern counties in the State of
334 Mississippi, including the Mississippi Sound, St. Louis Bay,
335 Biloxi Bay and Pascagoula Bay, and in which the registered voters
336 of the county in which the port is located have not voted to
337 prohibit such betting, gaming or wagering on cruise vessels as
338 provided in Section 19-3-79;

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

344 (i) The structure is owned, leased or controlled
345 by a person possessing a gaming license, as defined in Section
346 75-76-5, to conduct legal gaming on a cruise vessel under
347 paragraph (a) of this section;

348 (ii) The part of the structure in which licensed
349 gaming activities are conducted is located entirely in an area
350 which is located no more than eight hundred (800) feet from the
351 mean high-water line (as defined in Section 29-15-1) of the waters
352 within the State of Mississippi, which lie adjacent to the State
353 of Mississippi south of the three (3) most southern counties in
354 the State of Mississippi, including the Mississippi Sound, St.
355 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to

356 Harrison County only, no farther north than the southern boundary
357 of the right-of-way for U.S. Highway 90, as such highway existed
358 on October 17, 2005, whichever is greater; and

359 (iii) In the case of a structure that is located
360 in whole or part on shore, the part of the structure in which
361 licensed gaming activities are conducted shall lie adjacent to
362 state waters south of the three (3) most southern counties in the
363 State of Mississippi, including the Mississippi Sound, St. Louis
364 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
365 structure is located consists of a parcel of real property,
366 easements and rights-of-way for public streets and highways shall
367 not be construed to interrupt the contiguous nature of the parcel,
368 nor shall the footage contained within the easements and
369 rights-of-way be counted in the calculation of the distances
370 specified in subparagraph (ii).

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

377 (d) That is legal under the laws of the State of
378 Mississippi.

379 **SECTION 6.** Section 97-33-27, Mississippi Code of 1972, is
380 amended as follows:

381 97-33-27. If any person shall bet on a horse race or a yacht
382 race or on a shooting match, he shall be fined not more than Five
383 Hundred Dollars (\$500.00), and, unless the fine and costs be
384 immediately paid, he shall be imprisoned in the county jail not
385 more than ninety (90) days; provided, however, this section shall
386 not apply to betting, gaming or wagering:

387 (a) On a cruise vessel as defined in Section 27-109-1
388 whenever such vessel is in the waters within the State of

389 Mississippi, which lie adjacent to the State of Mississippi south
390 of the three (3) most southern counties in the State of
391 Mississippi, including the Mississippi Sound, St. Louis Bay,
392 Biloxi Bay and Pascagoula Bay, and in which the registered voters
393 of the county in which the port is located have not voted to
394 prohibit such betting, gaming or wagering on cruise vessels as
395 provided in Section 19-3-79;

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

401 (i) The structure is owned, leased or controlled
402 by a person possessing a gaming license, as defined in Section
403 75-76-5, to conduct legal gaming on a cruise vessel under
404 paragraph (a) of this section;

405 (ii) The part of the structure in which licensed
406 gaming activities are conducted is located entirely in an area
407 which is located no more than eight hundred (800) feet from the
408 mean high-water line (as defined in Section 29-15-1) of the waters
409 within the State of Mississippi, which lie adjacent to the State
410 of Mississippi south of the three (3) most southern counties in
411 the State of Mississippi, including the Mississippi Sound, St.
412 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
413 Harrison County only, no farther north than the southern boundary
414 of the right-of-way for U.S. Highway 90, as such highway existed
415 on October 17, 2005, whichever is greater; and

416 (iii) In the case of a structure that is located
417 in whole or part on shore, the part of the structure in which
418 licensed gaming activities are conducted shall lie adjacent to
419 state waters south of the three (3) most southern counties in the
420 State of Mississippi, including the Mississippi Sound, St. Louis
421 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the

422 structure is located consists of a parcel of real property,
423 easements and rights-of-way for public streets and highways shall
424 not be construed to interrupt the contiguous nature of the parcel,
425 nor shall the footage contained within the easements and
426 rights-of-way be counted in the calculation of the distances
427 specified in subparagraph (ii).

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

434 (d) That is legal under the laws of the State of
435 Mississippi.

436 **SECTION 7.** This act shall take effect and be in force from
437 and after its passage.