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To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3078

1 AN ACT TO AMEND SECTION 67-1-14, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A CERTAIN MUNICIPALITY LOCATED IN A COUNTY WHICH HAS
3 VOTED AGAINST COMING OUT FROM UNDER THE DRY TO HOLD AN ELECTION TO
4 VOTE TO COME OUT FROM UNDER THE DRY LAW; TO RESTRICT THE SALE OF
5 ALCOHOLIC BEVERAGES IN SUCH MUNICIPALITY TO HOTELS AND
6 RESTAURANTS; TO AUTHORIZE SUCH MUNICIPALITY TO REGULATE THE TYPES
7 OF ESTABLISHMENTS THAT QUALIFY AS A HOTEL OR A RESTAURANT; TO
8 AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY
9 THERETO; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 67-1-14, Mississippi Code of 1972, is
12 amended as follows:[WAN1]

13 67-1-14. (1) The legalizing provisions of this chapter may
14 be effective, applicable and operative in any municipality located
15 in a county which has voted against coming out from under the dry
16 law if a local option election shall be called and held in such
17 municipality in the manner and with the results hereinafter
18 provided.

19 (2) (a) Any municipality in this state (i) having a
20 population of not less than six thousand (6,000) according to the
21 latest federal census, all or any portion of which is located
22 within five (5) miles of the Tennessee-Tombigbee Waterway, or
23 (ii) having a population of less than three thousand (3,000)
24 according to the latest federal decennial census, all or any
25 portion of which is located within one (1) mile of the Jackson
26 International Airport, and which is located in a county which has
27 voted against coming out from under the dry law, may, at an
28 election held for the purpose under the election laws applicable
29 to such municipality, either prohibit or permit, except as

30 otherwise provided under Section 67-9-1, the sale, and the
31 receipt, storage and transportation for the purpose of sale, of
32 alcoholic beverages. An election to determine whether such sale
33 and possession shall be permitted in municipalities wherein its
34 sale and possession is prohibited by law shall be ordered by the
35 municipal governing authorities upon the presentation of a
36 petition to such governing authorities containing the names of at
37 least twenty percent (20%) of the duly qualified voters of such
38 municipality asking for such election. In like manner, an
39 election to determine whether such sale and possession shall be
40 prohibited in municipalities wherein its sale is permitted by law
41 shall be ordered by the municipal governing authorities upon the
42 presentation of a petition to such governing authorities
43 containing the names of at least twenty percent (20%) of the duly
44 qualified voters of such municipality asking for such election.
45 No election on either question shall be held by any one (1)
46 municipality more often than once in two (2) years.

47 Thirty (30) days' notice shall be given to the qualified
48 electors of such municipality, in the manner prescribed by law,
49 upon the question of either permitting or prohibiting such sale
50 and possession, such notice to contain a statement of the question
51 to be voted on at the election. The ballots to be used in the
52 election shall have the following words printed thereon: "For the
53 legal sale of alcoholic liquors," and the words "Against the legal
54 sale of alcoholic liquors" next below. In marking his ballot the
55 voter shall make a cross (X) opposite the words of his choice.

56 If in the election a majority of the qualified electors
57 voting in the election shall vote "for the legal sale of alcoholic
58 liquors," then the municipal governing authorities shall pass the
59 necessary order permitting the legal sale of such alcoholic
60 beverages in such municipality. If in the election a majority of
61 the qualified electors voting in the election shall vote "against
62 the legal sale of alcoholic liquors," then the municipal governing
63 authorities shall pass the necessary order prohibiting the sale of
64 alcoholic beverages in such municipality.

65 (b) The provisions of this subsection shall also apply
66 to any municipality having a population of not less than six

67 thousand (6,000) according to the latest federal census, a portion
68 of which is located in a county which has voted against coming out
69 from under the dry law and a portion of which is located in a
70 county which has voted in favor of coming out from under the dry
71 law. For the purpose of determining whether or not such a
72 municipality meets the threshold population of six thousand
73 (6,000) which will qualify the municipality to hold an election
74 under this subsection, the entire population of the municipality
75 shall be considered; however, the petition to hold the election
76 authorized in this subsection shall be ordered by the municipal
77 governing authorities upon the presentation of a petition to such
78 governing authorities containing the names of at least twenty
79 percent (20%) of the duly qualified voters of such municipality
80 who reside in that portion of the municipality located in a county
81 which has voted against coming out from under the dry law and the
82 election shall be held only in that portion of the municipality.
83 In all other respects, the authority for the holding of elections
84 and the manner in which such elections shall be conducted shall be
85 as prescribed in paragraph (a) of this subsection; and, after
86 proper certification of election results, the municipal governing
87 authorities shall pass the appropriate order to permit or prohibit
88 the legal sale of alcoholic beverages in that portion of the
89 municipality located in a county which has voted against coming
90 out from under the dry law.

91 (c) If a municipality in this state having a population
92 of less than three thousand (3,000) according to the latest
93 federal decennial census, all or any portion of which is located
94 within one (1) mile of the Jackson International Airport, votes to
95 come out from under the dry law, the sale of alcoholic beverages
96 shall be limited to restaurants and hotels. The governing
97 authorities of such municipality shall have the authority to adopt
98 ordinances regulating the types of establishments that qualify as
99 a hotel or a restaurant.

100 SECTION 2. Section 67-1-5, Mississippi Code of 1972, is
101 amended as follows:[WAN2]

102 67-1-5. For the purposes of this chapter and unless
103 otherwise required by the context:

104 (a) * * * "Alcoholic beverage" means any alcoholic
105 liquid, including wines of more than five percent (5%) of alcohol
106 by weight, capable of being consumed as a beverage by a human
107 being, but shall not include wine containing five percent (5%) or
108 less of alcohol by weight and shall not include beer containing
109 not more than five percent (5%) of alcohol by weight, as provided
110 for in Section 67-3-5, Mississippi Code of 1972, but shall include
111 native wines. The words "alcoholic beverage" shall not include
112 ethyl alcohol manufactured or distilled solely for fuel purposes.

113 (b) * * * "Alcohol" means the product of distillation
114 of any fermented liquid, whatever the origin thereof, and includes
115 synthetic ethyl alcohol, but does not include denatured alcohol or
116 wood alcohol.

117 (c) * * * "Distilled spirits" means any beverage
118 containing more than four percent (4%) of alcohol by weight
119 produced by distillation of fermented grain, starch, molasses or
120 sugar, including dilutions and mixtures of these beverages.

121 (d) * * * "Wine" or "vinous liquor" means any product
122 obtained from the alcoholic fermentation of the juice of sound,
123 ripe grapes, fruits or berries and made in accordance with the
124 revenue laws of the United States.

125 (e) * * * "Person" means and includes any individual,
126 partnership, corporation, association or other legal entity
127 whatsoever.

128 (f) * * * "Manufacturer" means any person engaged in
129 manufacturing, distilling, rectifying, blending or bottling any
130 alcoholic beverage.

131 (g) * * * "Wholesaler" means any person, other than a
132 manufacturer, engaged in distributing or selling any alcoholic

133 beverage at wholesale for delivery within or without this state
134 when such sale is for the purpose of resale by the purchaser.

135 (h) * * * "Retailer" means any person who sells,
136 distributes, or offers for sale or distribution, any alcoholic
137 beverage for use or consumption by the purchaser and not for
138 resale.

139 (i) * * * "Commission" means the State Tax Commission
140 of the State of Mississippi, which shall create a division in its
141 organization to be known as the Alcoholic Beverage Control
142 Division. Any reference to the commission hereafter means the
143 powers and duties of the State Tax Commission with reference to
144 supervision of the Alcoholic Beverage Control Division.

145 (j) * * * "Division" means the Alcoholic Beverage
146 Control Division of the State Tax Commission.

147 (k) * * * "Municipality" means any incorporated city or
148 town of this state.

149 (l) * * * "Hotel" means an establishment within a
150 municipality, or within a qualified resort area approved as such
151 by the commission, where, in consideration of payment, food and
152 lodging are habitually furnished to travelers and wherein are
153 located at least twenty (20) adequately furnished and completely
154 separate sleeping rooms with adequate facilities that persons
155 usually apply for and receive as overnight accommodations. Hotels
156 in towns or cities of more than twenty-five thousand (25,000)
157 population are similarly defined except that they must have fifty
158 (50) or more sleeping rooms. Any such establishment described in
159 this paragraph with less than fifty (50) beds shall operate one or
160 more regular dining rooms designed to be constantly frequented by
161 customers each day. When used in this chapter, the word "hotel"
162 shall also be construed to include any establishment that meets
163 the definition of "bed and breakfast inn" as provided in this
164 section. A municipality described in Section 67-1-14(2)(c) that
165 has voted to come out from under the dry law shall have the

166 authority to adopt ordinances that place qualifications on hotels
167 located within its corporate limits that are more restrictive than
168 those provided for elsewhere in this paragraph.

169 (m) * * * "Restaurant" means a place which is regularly
170 and in a bona fide manner used and kept open for the serving of
171 meals to guests for compensation, which has suitable seating
172 facilities for guests, and which has suitable kitchen facilities
173 connected therewith for cooking an assortment of foods and meals
174 commonly ordered at various hours of the day; the service of such
175 food as sandwiches and salads only shall not be deemed in
176 compliance with this requirement. No place shall qualify as a
177 restaurant under this chapter unless twenty-five percent (25%) or
178 more of the revenue derived from such place shall be from the
179 preparation, cooking and serving of meals and not from the sale of
180 beverages, or unless the value of food given to and consumed by
181 customers is equal to twenty-five percent (25%) or more of total
182 revenue. A municipality described in Section 67-1-14(2)(c) that
183 has voted to come out from under the dry law shall have the
184 authority to adopt ordinances that place qualifications on hotels
185 located within its corporate limits that are more restrictive than
186 those provided for elsewhere in this paragraph.

187 (n) * * * "Club" means an association or a corporation:
188 (i) Organized or created under the laws of this
189 state for a period of five (5) years prior to July 1, 1966;
190 (ii) Organized not primarily for pecuniary profit
191 but for the promotion of some common object other than the sale or
192 consumption of alcoholic beverages;
193 (iii) Maintained by its members through the
194 payment of annual dues;
195 (iv) Owning, hiring or leasing a building or space
196 in a building of such extent and character as may be suitable and
197 adequate for the reasonable and comfortable use and accommodation
198 of its members and their guests;

199 (v) The affairs and management of which are
200 conducted by a board of directors, board of governors, executive
201 committee, or similar governing body chosen by the members at a
202 regular meeting held at some periodic interval; and

203 (vi) No member, officer, agent or employee of
204 which is paid, or directly or indirectly receives, in the form of
205 a salary or other compensation any profit from the distribution or
206 sale of alcoholic beverages to the club or to members or guests of
207 the club beyond such salary or compensation as may be fixed and
208 voted at a proper meeting by the board of directors or other
209 governing body out of the general revenues of the club.

210 The commission may, in its discretion, waive the five-year
211 provision of this paragraph. In order to qualify under this
212 paragraph, a club must file with the commission, at the time of
213 its application for a license under this chapter, two (2) copies
214 of a list of the names and residences of its members and similarly
215 file, within ten (10) days after the election of any additional
216 member, his name and address. Each club applying for a license
217 shall also file with the commission at the time of the application
218 a copy of its articles of association, charter of incorporation,
219 bylaws or other instruments governing the business and affairs
220 thereof.

221 (o) * * * "Qualified resort area" means any area or
222 locality outside of the limits of incorporated municipalities in
223 this state commonly known and accepted as a place which regularly
224 and customarily attracts tourists, vacationists and other
225 transients because of its historical, scenic or recreational
226 facilities or attractions, or because of other attributes which
227 regularly and customarily appeal to and attract tourists,
228 vacationists and other transients in substantial numbers; however,
229 no area or locality shall so qualify as a resort area until it has
230 been duly and properly approved as such by the commission.

231 (i) The commission may approve an area or locality

232 outside of the limits of an incorporated municipality that is in
233 the process of being developed as a qualified resort area if such
234 area or locality, when developed, can reasonably be expected to
235 meet the requisites of the definition of the term "qualified
236 resort area." In such a case, the status of qualified resort area
237 shall not take effect until completion of the development.

238 (ii) The term includes any state park which is
239 declared a resort area by the commission; however, such
240 declaration may only be initiated in a written request for resort
241 area status made to the commission by the Executive Director of
242 the Department of Wildlife, Fisheries and Parks, and no permit for
243 the sale of any alcoholic beverage, as defined in this chapter,
244 except an on-premises retailer's permit, shall be issued for a
245 hotel, restaurant or bed and breakfast inn in such park.

246 (iii) The term includes the clubhouses associated
247 with the state park golf courses at the Lefleur's Bluff State
248 Park, the John Kyle State Park, the Percy Quin State Park and the
249 Hugh White State Park. The status of these clubhouses as
250 qualified resort areas does not require any declaration of same by
251 the commission.

252 (p) * * * "Native wine" * * * means any product,
253 produced in Mississippi for sale, having an alcohol content not to
254 exceed twenty-one percent (21%) by weight and made in accordance
255 with revenue laws of the United States, which shall be obtained
256 primarily from the alcoholic fermentation of the juice of ripe
257 grapes, fruits, berries or vegetables grown and produced in
258 Mississippi; provided that bulk, concentrated or fortified wines
259 used for blending may be produced without this state and used in
260 producing native wines. The commission shall adopt and promulgate
261 rules and regulations to permit a producer to import such bulk
262 and/or fortified wines into this state for use in blending with
263 native wines without payment of any excise tax that would
264 otherwise accrue thereon.

265 (q) * * * "Native winery" * * * means any place or
266 establishment within the State of Mississippi where native wine is
267 produced in whole or in part for sale.

268 (r) * * * "Bed and breakfast inn" means an
269 establishment within a municipality where in consideration of
270 payment, breakfast and lodging are habitually furnished to
271 travelers and wherein are located not less than eight (8) and not
272 more than nineteen (19) adequately furnished and completely
273 separate sleeping rooms with adequate facilities, that persons
274 usually apply for and receive as overnight accommodations;
275 however, such restriction on the minimum number of sleeping rooms
276 shall not apply to establishments on the National Register of
277 Historic Places. No place shall qualify as a bed and breakfast
278 inn under this chapter unless on the date of the initial
279 application for a license under this chapter more than fifty
280 percent (50%) of the sleeping rooms are located in a structure
281 formerly used as a residence.

282 SECTION 3. This act shall take effect and be in force from
283 and after July 1, 2000.