

By: Representative Fillingane

To: Apportionment and
Elections; County Affairs

HOUSE BILL NO. 429

1 AN ACT TO AMEND SECTION 67-1-14, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT IF A MUNICIPALITY THAT HAS VOTED TO PERMIT THE SALE,
3 AND THE RECEIPT, STORAGE AND TRANSPORTATION FOR THE PURPOSE OF
4 SALE, OF ALCOHOLIC BEVERAGES EXTENDS ITS BOUNDARIES INTO A COUNTY
5 THAT HAS VOTED AGAINST COMING OUT FROM UNDER THE DRY LAW, THEN THE
6 SALE, AND THE RECEIPT, STORAGE AND TRANSPORTATION FOR THE PURPOSE
7 OF SALE, OF ALCOHOLIC BEVERAGES SHALL NOT BE PERMITTED IN THE
8 PORTION OF SUCH MUNICIPALITY EXTENDED INTO SUCH A COUNTY UNLESS
9 AUTHORIZED BY AN ELECTION HELD FOR THAT PURPOSE AFTER THE DATE THE
10 BOUNDARIES OF SUCH MUNICIPALITY ARE EXTENDED INTO SUCH A COUNTY;
11 TO AMEND SECTION 67-3-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
12 IF A MUNICIPALITY THAT HAS VOTED TO PERMIT THE SALE, AND THE
13 RECEIPT, STORAGE AND TRANSPORTATION FOR THE PURPOSE OF SALE, OF
14 BEER OF AN ALCOHOLIC CONTENT OF NOT MORE THAN FIVE PERCENT BY
15 WEIGHT EXTENDS ITS BOUNDARIES INTO A COUNTY THAT HAS VOTED AGAINST
16 ALLOWING THE TRANSPORTATION, STORAGE, SALE, DISTRIBUTION, RECEIPT
17 AND/OR MANUFACTURE OF BEER OF AN ALCOHOLIC CONTENT OF NOT MORE
18 THAN FIVE PERCENT, THEN THE SALE, AND THE RECEIPT, STORAGE AND
19 TRANSPORTATION FOR THE PURPOSE OF SALE, OF BEER OF AN ALCOHOLIC
20 CONTENT OF NOT MORE THAN FIVE PERCENT BY WEIGHT SHALL NOT BE
21 PERMITTED IN THE PORTION OF SUCH MUNICIPALITY EXTENDED INTO SUCH A
22 COUNTY UNLESS AUTHORIZED BY AN ELECTION HELD FOR THAT PURPOSE
23 AFTER THE DATE THE BOUNDARIES OF SUCH MUNICIPALITY ARE EXTENDED
24 INTO SUCH A COUNTY; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** Section 67-1-14, Mississippi Code of 1972, is
27 amended as follows:

28 67-1-14. (1) The legalizing provisions of this chapter may
29 be effective, applicable and operative in any municipality located
30 in a county which has voted against coming out from under the dry
31 law if a local option election shall be called and held in such
32 municipality in the manner and with the results hereinafter
33 provided.

34 (2) (a) Any municipality in this state having a population
35 of not less than six thousand (6,000) according to the latest
36 federal census, all or any portion of which is located within five
37 (5) miles of the Tennessee-Tombigbee Waterway and which is located
38 in a county which has voted against coming out from under the dry

39 law, may, at an election held for the purpose under the election
40 laws applicable to such municipality, either prohibit or permit,
41 except as otherwise provided under Section 67-9-1, the sale, and
42 the receipt, storage and transportation for the purpose of sale,
43 of alcoholic beverages. An election to determine whether such
44 sale and possession shall be permitted in municipalities wherein
45 its sale and possession is prohibited by law shall be ordered by
46 the municipal governing authorities upon the presentation of a
47 petition to such governing authorities containing the names of at
48 least twenty percent (20%) of the duly qualified voters of such
49 municipality asking for such election. In like manner, an
50 election to determine whether such sale and possession shall be
51 prohibited in municipalities wherein its sale is permitted by law
52 shall be ordered by the municipal governing authorities upon the
53 presentation of a petition to such governing authorities
54 containing the names of at least twenty percent (20%) of the duly
55 qualified voters of such municipality asking for such election.
56 No election on either question shall be held by any one (1)
57 municipality more often than once in two (2) years.

58 Thirty (30) days' notice shall be given to the qualified
59 electors of such municipality, in the manner prescribed by law,
60 upon the question of either permitting or prohibiting such sale
61 and possession, such notice to contain a statement of the question
62 to be voted on at the election. The ballots to be used in the
63 election shall have the following words printed thereon: "For the
64 legal sale of alcoholic liquors," and the words "Against the legal
65 sale of alcoholic liquors" next below. In marking his ballot the
66 voter shall make a cross (X) opposite the words of his choice.

67 If in the election a majority of the qualified electors
68 voting in the election shall vote "for the legal sale of alcoholic
69 liquors," then the municipal governing authorities shall pass the
70 necessary order permitting the legal sale of such alcoholic
71 beverages in such municipality. If in the election a majority of

72 the qualified electors voting in the election shall vote "against
73 the legal sale of alcoholic liquors," then the municipal governing
74 authorities shall pass the necessary order prohibiting the sale of
75 alcoholic beverages in such municipality.

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

102 If a municipality that has voted to permit the sale, and the
103 receipt, storage and transportation for the purpose of sale, of
104 alcoholic beverages extends its boundaries after July 1, 2006,

105 into a county that has voted against coming out from under the dry
106 law, then the sale, and the receipt, storage and transportation
107 for the purpose of sale, of alcoholic beverages shall not be
108 permitted in the portion of such municipality extended into such a
109 county unless authorized by an election held for that purpose
110 after the date the boundaries of such municipality are extended
111 into such a county. Such election shall be ordered by the
112 municipal governing authorities upon the presentation of a
113 petition to such governing authorities containing the names of at
114 least twenty percent (20%) of the duly qualified voters of such
115 municipality who reside in the portion of the municipality that
116 was extended into a county that has voted against coming out from
117 under the dry law, and the election shall be held only in such
118 portion of the municipality. In all other respects, the authority
119 for the holding of elections and the manner in which such
120 elections shall be conducted shall be as prescribed in paragraph
121 (a) of this subsection; and, after proper certification of
122 election results, the municipal governing authorities shall pass
123 the appropriate order to permit or prohibit the legal sale of
124 alcoholic beverages in the portion of the municipality that was
125 extended into a county that has voted against coming out from
126 under the dry law.

127 **SECTION 2.** Section 67-3-9, Mississippi Code of 1972, is
128 amended as follows:

129 67-3-9. Any city in this state, having a population of not
130 less than two thousand five hundred (2,500) according to the
131 latest federal census, at an election held for the purpose, under
132 the election laws applicable to such city, may either prohibit or
133 permit, except as otherwise provided under Section 67-9-1, the
134 sale and the receipt, storage and transportation for the purpose
135 of sale of beer of an alcoholic content of not more than five
136 percent (5%) by weight. An election to determine whether such
137 sale shall be permitted in cities wherein its sale is prohibited

138 by law shall be ordered by the city council or mayor and board of
139 aldermen or other governing body of such city for such city only,
140 upon the presentation of a petition for such city to such
141 governing board containing the names of twenty percent (20%) of
142 the duly qualified voters of such city asking for such election.
143 In like manner, an election to determine whether such sale shall
144 be prohibited in cities wherein its sale is permitted by law shall
145 be ordered by the city council or mayor and board of aldermen or
146 other governing board of such city for such city only, upon the
147 presentation of a petition to such governing board containing the
148 names of twenty percent (20%) of the duly qualified voters of such
149 city asking for such election. No election on either question
150 shall be held by any one (1) city oftener than once in five (5)
151 years.

152 Thirty (30) days' notice shall be given to the qualified
153 electors of such city in the manner prescribed by law upon the
154 question of either permitting or prohibiting such sale, said
155 notice to contain a statement of the question to be voted on at
156 said election. The tickets to be used in said election shall have
157 the following words printed thereon: "For the legal sale of beer
158 of an alcoholic content of not more than five percent (5%) by
159 weight"; and the words "Against the legal sale of beer of an
160 alcoholic content of not more than five percent (5%) by weight,"
161 next below. In making up his ticket the voter shall make a cross
162 (X) opposite the words of his choice.

163 If in said election a majority of the qualified electors
164 voting in the election shall vote "For the legal sale of beer of
165 an alcoholic content of not more than five percent (5%) by
166 weight," then the city council or mayor and board of aldermen or
167 other governing body shall pass the necessary order permitting the
168 legal sale of such beer in such city. If in said election a
169 majority of the qualified electors voting in the election shall
170 vote "Against the legal sale of beer of an alcoholic content of

171 not more than five percent (5%) by weight," then the city council
172 or mayor and board of aldermen or other governing body shall pass
173 the necessary order prohibiting the sale of such beer in such
174 city.

175 If a municipality that has voted to permit the sale, and the
176 receipt, storage and transportation for the purpose of sale, of
177 beer of an alcoholic content of not more than five percent (5%) by
178 weight extends its boundaries after July 1, 2006, into a county
179 that has voted against permitting the transportation, storage,
180 sale, distribution, receipt and/or manufacture of beer of an
181 alcoholic content of not more than five percent (5%) by weight,
182 then the sale, and the receipt, storage and transportation for the
183 purpose of sale, of beer of an alcoholic content of not more than
184 five percent (5%) by weight shall not be permitted in the portion
185 of such municipality extended into such a county unless authorized
186 by an election held for that purpose after the date the boundaries
187 of such municipality are extended into such a county. Such
188 election shall be ordered by the municipal governing authorities
189 upon the presentation of a petition to such governing authorities
190 containing the names of at least twenty percent (20%) of the duly
191 qualified voters of such municipality who reside in the portion of
192 the municipality that was extended into a county that has voted
193 against permitting the transportation, storage, sale,
194 distribution, receipt and/or manufacture of beer of an alcoholic
195 content of not more than five percent (5%) by weight, and the
196 election shall be held only in such portion of the municipality.
197 In all other respects, the authority for the holding of elections
198 and the manner in which such elections shall be conducted shall be
199 as prescribed in this section; and, after proper certification of
200 election results, the municipal governing authorities shall pass
201 the necessary order to permit or prohibit the sale of beer in the
202 portion of the municipality that was extended into such a county.

203 All laws or parts of laws in conflict with this section are
204 hereby repealed to the extent of such conflict only, this section
205 being cumulative and supplementary.

206 **SECTION 3.** The Attorney General of the State of Mississippi
207 shall submit this act, immediately upon approval by the Governor,
208 or upon approval by the Legislature subsequent to a veto, to the
209 Attorney General of the United States or to the United States
210 District Court for the District of Columbia in accordance with the
211 provisions of the Voting Rights Act of 1965, as amended and
212 extended.

213 **SECTION 4.** This act shall take effect and be in force from
214 and after the date it is effectuated under Section 5 of the Voting
215 Rights Act of 1965, as amended and extended.