

By: Representative Banks

To: Ways and Means

## HOUSE BILL NO. 1445

1 AN ACT TO AMEND SECTION 21-17-5, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE GOVERNING AUTHORITIES OF ANY COUNTY OR MUNICIPALITY,  
3 IN ITS DISCRETION, TO ALLOW PACKAGE RETAIL ESTABLISHMENTS TO  
4 REMAIN OPEN UNTIL 11:30 P.M. ON DAYS THAT SUCH ESTABLISHMENTS ARE  
5 ALLOWED TO BE OPEN FOR SALES; TO AMEND SECTION 67-1-83,  
6 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 21-17-5, Mississippi Code of 1972, is  
9 amended as follows:

10 21-17-5. (1) The governing authorities of every  
11 municipality of this state shall have the care, management and  
12 control of the municipal affairs and its property and finances.  
13 In addition to those powers granted by specific provisions of  
14 general law, the governing authorities of municipalities shall  
15 have the power to adopt any orders, resolutions or ordinances with  
16 respect to such municipal affairs, property and finances which are  
17 not inconsistent with the Mississippi Constitution of 1890, the  
18 Mississippi Code of 1972, or any other statute or law of the State  
19 of Mississippi, and shall likewise have the power to alter, modify  
20 and repeal such orders, resolutions or ordinances. Except as  
21 otherwise provided in subsection (2) of this section, the powers  
22 granted to governing authorities of municipalities in this section  
23 are complete without the existence of or reference to any specific  
24 authority granted in any other statute or law of the State of  
25 Mississippi. Unless otherwise provided by law, before entering  
26 upon the duties of their respective offices, the aldermen or  
27 councilmen of every municipality of this state shall give bond,  
28 with sufficient surety, to be payable, conditioned and approved as  
29 provided by law, in a penalty equal to five percent (5%) of the

30 sum of all the municipal taxes shown by the assessment rolls and  
31 the levies to have been collectible in the municipality for the  
32 year immediately preceding the commencement of the term of office  
33 of said alderman or councilman; however, such bond shall not  
34 exceed the amount of One Hundred Thousand Dollars (\$100,000.00).  
35 Any taxpayer of the municipality may sue on such bond for the use  
36 of the municipality, and such taxpayer shall be liable for all  
37 costs in case his suit shall fail. No member of the city council  
38 or board of aldermen shall be surety for any other such member.

39 (2) Unless such actions are specifically authorized by  
40 another statute or law of the State of Mississippi, this section  
41 shall not authorize the governing authorities of municipalities to  
42 (a) levy taxes of any kind or increase the levy of any authorized  
43 tax, (b) issue bonds of any kind, (c) change the requirements,  
44 practices or procedures for municipal elections or establish any  
45 new elective office, (d) change the procedure for annexation of  
46 additional territory into the municipal boundaries, (e) change the  
47 structure or form of the municipal government, (f) permit the  
48 sale, manufacture, distribution, possession or transportation of  
49 alcoholic beverages, (g) grant any donation, or (h) without prior  
50 legislative approval, regulate, directly or indirectly, the amount  
51 of rent charged for leasing private residential property in which  
52 the municipality does not have a property interest.

53 (3) Nothing in this or any other section shall be construed  
54 so as to prevent any municipal governing authority from paying any  
55 municipal employee not to exceed double his ordinary rate of pay  
56 or awarding any municipal employee not to exceed double his  
57 ordinary rate of compensatory time for work performed in his  
58 capacity as a municipal employee on legal holidays. The governing  
59 authority of any municipality, in its discretion, may enact leave  
60 policies to ensure that public safety employees receive the same  
61 holiday benefits as other municipal employees when the public  
62 safety employee's regular day off occurs on a legal holiday.

63 (4) The governing authority of any municipality, in its  
64 discretion, may expend funds to provide for training and education  
65 of newly elected or appointed municipal officials before the  
66 beginning of the term of office or employment of such officials.  
67 Any expenses incurred for such purposes may be allowed only upon  
68 prior approval of the governing authority. Any payments or  
69 reimbursements made under the provisions of this subsection may be  
70 paid only after presentation to and approval by the governing  
71 authority of the municipality.

72 (5) The governing authorities of any county or municipality,  
73 in its discretion, shall have the power to adopt any orders,  
74 resolutions or ordinances allowing operators of package retail  
75 establishments located within the governing authorities'  
76 jurisdiction to remain open for business on days in which they are  
77 so allowed to conduct sales until 11:30 p.m.

78 **SECTION 2.** Section 67-1-83, Mississippi Code of 1972, is  
79 amended as follows:

80 67-1-83. (1) It shall be unlawful for any permittee or  
81 other person to sell or furnish any alcoholic beverage to any  
82 person who is known to be insane or mentally defective, or to any  
83 person who is visibly intoxicated, or to any person who is known  
84 to habitually drink alcoholic beverages to excess, or to any  
85 person who is known to be an habitual user of narcotics or other  
86 habit-forming drugs. It shall also be unlawful for the holder of  
87 any package retailer's permit to sell any alcoholic beverages  
88 except by delivery in person to the purchaser at the place of  
89 business of the permittee.

90 (2) It shall be unlawful for any permittee or other person  
91 to sell or furnish any alcoholic beverage to any person to whom  
92 the commission has, after investigation, decided to prohibit the  
93 sale of such beverages because of an appeal to the commission so  
94 to do by the husband, wife, father, mother, brother, sister,  
95 child, or employer of such person. The interdiction in such cases

96 shall last until removed by the commission, but no person shall be  
97 held to have violated this subsection unless he has been informed  
98 by the commission, by registered letter, that it is forbidden to  
99 sell to such individual or unless such fact is otherwise known to  
100 such permittee or other person.

101 (3) Except as otherwise provided in Section 21-7-5(5), it  
102 shall be unlawful for any holder of a package retailer's permit,  
103 or any employee or agent thereof, engaged solely in the business  
104 of package retail sales under this chapter to sell or furnish any  
105 alcoholic beverage before 10:00 a.m. and after 10:00 p.m. or to  
106 sell alcoholic beverages on Sunday and Christmas Day.

107 (4) Any person who shall violate any of the provisions of  
108 this section shall be guilty of a misdemeanor and, upon  
109 conviction, shall be punished by a fine of not more than Five  
110 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
111 for a term of not more than six (6) months or by both such fine  
112 and imprisonment, in the discretion of the court. In addition,  
113 the commission shall forthwith revoke the permit of any permittee  
114 who violates the provisions of this section.

115 **SECTION 3.** This act shall take effect and be in force from  
116 and after July 1, 2007.