

By: Senator(s) Moffatt

To: Local and Private;  
Finance

SENATE BILL NO. 3206

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF  
2 OCEAN SPRINGS, MISSISSIPPI, TO LEVY A TAX UPON THE GROSS PROCEEDS  
3 OF SALES OF PREPARED FOOD AND BEVERAGES BY RESTAURANTS AND BARS;  
4 TO PROVIDE THAT THE REVENUE FROM THE TAX SHALL BE EXPENDED BY THE  
5 CITY OF OCEAN SPRINGS TO PROVIDE FOR TOURISM, MARKETING,  
6 RECREATIONAL FACILITIES AND PUBLIC SAFETY FACILITIES; TO PROVIDE  
7 FOR AN ELECTION ON WHETHER THE TAX MAY BE LEVIED; AND FOR RELATED  
8 PURPOSES.

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

10 **SECTION 1.** As used in this act, the following terms shall  
11 have the following meaning unless a different meaning is clearly  
12 indicated by the context in which they are used:

13 (a) "Governing authorities" means the governing  
14 authorities of the City of Ocean Springs, Mississippi.

15 (b) "Restaurant" means all places where prepared food  
16 and beverages are sold for consumption on the premises. The term  
17 "restaurant" does not include any school, hospital, convalescent  
18 or nursing home, or any restaurant-like facility operated by or in  
19 connection with a school, hospital, medical clinic, convalescent  
20 or nursing home providing food for students, patients, visitors or  
21 their families.

22 (c) "Bar" means all places required by law to possess  
23 an on-premises Alcoholic Beverage Control Permit where beer or  
24 other alcoholic beverages, or both, are sold for consumption on  
25 the premises.

26 **SECTION 2.** (1) For the purpose of providing funds for  
27 tourism, marketing, public safety, and recreation, including, but  
28 not limited to, the improvement or construction of publicly-owned  
29 recreational and/or public safety complexes, the governing  
30 authorities are authorized, in their discretion, to levy and

31 collect from the following persons a tax, which shall be in  
32 addition to all of the taxes and assessments imposed. The tax  
33 shall be imposed upon every person, firm or corporation operating  
34 a restaurant and/or bar in the City of Ocean Springs, at a rate  
35 not to exceed two percent (2%) of the gross proceeds of sales of  
36 prepared food and beverages for each restaurant and/or bar.

37 (2) Persons, firms or corporations liable for the levy  
38 imposed under subsection (1) of this section shall add the amount  
39 of the levy to the sales price of the products set out in  
40 subsection (1) of this section and shall collect, insofar as is  
41 practicable, the amount of the tax due by them from the person  
42 receiving the services or product at the time of payment therefor.

43 (3) The tax shall be collected by and paid to the  
44 Mississippi State Tax Commission on a form prescribed by the State  
45 Tax Commission in the manner that state sales taxes are computed,  
46 collected and paid; and full enforcement provisions and all other  
47 provisions of Chapter 65, Title 27, Mississippi Code of 1972,  
48 shall apply as necessary to the implementation and administration  
49 of this act.

50 (4) The proceeds of the tax, less three percent (3%) thereof  
51 which shall be retained by the State Tax Commission to defray the  
52 cost of collection, shall be paid to the governing authorities on  
53 or before the fifteenth day of the month following the month in  
54 which collected.

55 (5) The proceeds of the tax shall not be considered by the  
56 City of Ocean Springs as general fund revenues but shall be  
57 dedicated to and expended solely for the purposes specified in  
58 this section.

59 **SECTION 3.** Before any tax authorized under this act may be  
60 imposed, the governing authorities shall adopt a resolution  
61 declaring their intention to levy the tax, setting forth the  
62 amount of the tax to be imposed, the date upon which the tax shall  
63 become effective and calling for an election to be held on the

64 question. The date of the election shall be fixed in the  
65 resolution. Notice of such intention and the election shall be  
66 published once each week for at least three (3) consecutive weeks  
67 in a newspaper published or having a general circulation in the  
68 City of Ocean Springs, with the first publication of the notice to  
69 be made not less than twenty-one (21) days before the date fixed  
70 in the resolution for the election and the last publication to be  
71 made not more than seven (7) days before the election. At the  
72 election, all qualified electors of the City of Ocean Springs may  
73 vote, and the ballots used in the election shall have printed  
74 thereon a brief statement of the amount and purposes of the  
75 proposed tax levy and the words "FOR THE TAX" and, on a separate  
76 line, "AGAINST THE TAX" and the voters shall vote by placing a  
77 cross (X) or check (√) opposite their choice on the proposition.  
78 When the results of the election shall have been canvassed and  
79 certified, the city may levy the tax if sixty percent (60%) of the  
80 qualified electors who vote in the election vote in favor of the  
81 tax. At least thirty (30) days before the effective date of the  
82 tax provided in this section, the governing authorities shall  
83 furnish to the State Tax Commission a certified copy of the  
84 resolution evidencing the tax.

85       **SECTION 4.** Accounting for receipts and expenditures of the  
86 funds described in this act shall be made separately from the  
87 accounting of receipts and expenditures of the general fund and  
88 any other funds of the City of Ocean Springs. The records  
89 reflecting the receipts and expenditures of the funds prescribed  
90 in this act shall be audited annually by an independent certified  
91 public accountant, and the accountant shall make a written report  
92 of his audit to the governing authorities. The audit shall be  
93 made and completed as soon as practicable after the close of the  
94 fiscal year, and expenses of the audit shall be paid from the  
95 funds derived in accordance with this act.

96           **SECTION 5.** The governing authorities are directed to submit  
97 this act, immediately upon approval by the Governor, or upon  
98 approval by the Legislature subsequent to a veto, to the Attorney  
99 General of the United States or to the United States District  
100 Court for the District of Columbia in accordance with the  
101 provisions of the Voting Rights Act of 1965, as amended and  
102 extended.

103           **SECTION 6.** This act shall take effect and be in force from  
104 and after the date it is effectuated under Section 5 of the Voting  
105 Rights Act of 1965, as amended and extended.