

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 3206

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

13 **SECTION 1.** As used in this act, the following terms have the
14 meanings ascribed to them in this section unless the context
15 clearly indicates otherwise:

16 (a) "Bar" means any bar, tavern or lounge where
17 alcoholic beverages are sold for consumption on the premises.

18 (b) "City" means the City of Ocean Springs,
19 Mississippi.

20 (c) "Governing authorities" means the governing
21 authorities of the City of Ocean Springs, Mississippi.

22 (d) "Prepared food" means food prepared on the premises
23 of a restaurant or bar.

24 (e) "Restaurant" means all places within the corporate
25 limits of the city where prepared food and beverages are sold for
26 consumption, whether such food is consumed on the premises or not.
27 The term "restaurant" does not include any: school; hospital;
28 convalescent or nursing home; restaurant-like facility operated by
29 or in connection with a school, hospital, medical clinic,
30 convalescent or nursing home providing food for students,
31 patients, visitors or their families; or convenience store or

32 service station where the sale of prepared food constitutes less
33 than fifty percent (50%) of the gross sales.

34 **SECTION 2.** (1) For the purpose of providing funds to
35 promote tourism and improve recreation, economic development and
36 public safety within the city, the governing authorities of the
37 City of Ocean Springs, Mississippi, in their discretion, may levy,
38 assess and collect a tax in an amount not to exceed two percent
39 (2%) of the gross proceeds of the sales of prepared food and
40 beverages from every person, firm, corporation or other entity
41 operating a restaurant or bar, or both, in the city. The tax
42 authorized under this act shall be in addition to all other taxes
43 or assessments imposed.

44 (2) Persons, firms, corporations or other entities liable
45 for the tax imposed under subsection (1) of this section shall add
46 the amount of the tax to the sales price of the food and beverages
47 and shall collect, insofar as practicable, the amount of the tax
48 due from the person purchasing the food or beverages at the time
49 of payment therefor.

50 **SECTION 3.** Before any tax authorized under Section 2 of this
51 act may be imposed, the governing authorities must adopt a
52 resolution declaring their intention to levy the tax and setting
53 forth the amount of the tax and the date upon which the tax shall
54 become effective. The resolution also must call for a referendum
55 to be held on the question and establishing the date of the
56 referendum. Notice of the governing authority's intention must be
57 published once each week for at least three (3) consecutive weeks
58 in a newspaper published or having a general circulation in the
59 city, with the first publication of the notice to be made not less
60 than twenty-one (21) days before the date fixed in the resolution
61 for the referendum and the last publication to be made not more
62 than seven (7) days before the referendum. At the referendum, all
63 qualified electors of the city may vote. The ballots used in the

64 referendum must have printed thereon a brief statement of the
65 amount and purposes of the proposed tax levy and the words "FOR
66 THE FOOD AND BEVERAGE TAX TO FUND THE PROMOTION OF TOURISM AND
67 IMPROVEMENTS TO RECREATION, ECONOMIC DEVELOPMENT AND PUBLIC SAFETY
68 IN THE CITY" and, on a separate line, "AGAINST THE FOOD AND
69 BEVERAGE TAX TO FUND THE PROMOTION OF TOURISM AND IMPROVEMENTS TO
70 RECREATION, ECONOMIC DEVELOPMENT AND PUBLIC SAFETY IN THE CITY."
71 The voters shall vote by placing a cross (X) or check (✓) opposite
72 their choice on the proposition. After the results of the
73 referendum have been canvassed by the election commission and
74 certified, if at least sixty percent (60%) of the qualified
75 electors who voted in the election voted in favor of the tax, the
76 city may levy the tax beginning on the first day of the second
77 month following the referendum. Public funds may not be used for
78 the purpose of promoting the adoption of the referendum, and
79 employees of the city, other than elected public officials, may
80 not promote the referendum during business hours.

81 **SECTION 4.** (1) On or before the fifteenth day of the month
82 preceding the date on which the city will begin to levy the tax
83 authorized under Section 2 of this act, the governing authorities
84 shall give written notification to the Chairman of the State Tax
85 Commission of the date on which the tax will become effective.

86 (2) The tax must be collected by and paid to the State Tax
87 Commission in the same manner that state sales taxes are computed,
88 collected and paid, and the full enforcement provisions and all
89 other provisions of Chapter 65, Title 27, Mississippi Code of
90 1972, will apply as necessary for the implementation of this act.

91 (3) Except for any amount retained by the State Tax
92 Commission under Section 27-3-58, Mississippi Code of 1972, the
93 revenue from the special tax collected under this act must be paid
94 to the city on or before the fifteenth day of the month following
95 the month in which collected.

96 (4) The proceeds of the tax may not be considered by the
97 city as general fund revenues but must be placed into a special
98 fund apart from the city general fund and any other funds and
99 expended by the city strictly for the purposes prescribed under
100 Section 2 of this act.

101 **SECTION 5.** The provisions of this act shall be repealed on
102 July 1, 2014.

103 **SECTION 6.** The governing authorities of the City of Ocean
104 Springs are directed to submit this act, immediately upon approval
105 by the Governor, or upon approval by the Legislature subsequent to
106 a veto, to the Attorney General of the United States or to the
107 United States District Court for the District of Columbia in
108 accordance with the provisions of the Voting Rights Act of 1965,
109 as amended and extended.

110 **SECTION 7.** This act shall take effect and be in force from
111 and after the date it is effectuated under Section 5 of the Voting
112 Rights Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF
2 OCEAN SPRINGS, MISSISSIPPI, TO LEVY A TAX UPON THE SALE OF
3 PREPARED FOOD AND BEVERAGES IN RESTAURANTS AND BARS IN AN AMOUNT
4 NOT TO EXCEED TWO PERCENT OF GROSS PROCEEDS FOR THE PURPOSE OF
5 PROMOTING TOURISM AND IMPROVING RECREATION, ECONOMIC DEVELOPMENT
6 AND PUBLIC SAFETY IN THE CITY; TO REQUIRE THE TAX, BEFORE ITS
7 IMPOSITION, TO BE APPROVED BY SIXTY PERCENT OF QUALIFIED ELECTORS
8 VOTING IN A REFERENDUM ON THE QUESTION OF LEVYING THE TAX; TO
9 PROVIDE THAT THE TAX SHALL BE COLLECTED BY THE STATE TAX
10 COMMISSION AND PAID TO THE CITY OF OCEAN SPRINGS; AND FOR RELATED
11 PURPOSES.