

By: Representatives Turner, Sykes

To: Accountability,  
Efficiency, Transparency;  
Public Health and Human  
Services

HOUSE BILL NO. 1206  
(As Passed the House)

1 AN ACT TO AMEND SECTION 69-1-18, MISSISSIPPI CODE OF 1972, TO  
2 DEFINE THE TERMS "VENDING MACHINE" AND "MICRO MARKET"; TO EXEMPT  
3 VENDING MACHINES AND MICRO MARKETS WHICH SALE PREPACKAGED FOOD AND  
4 OTHER FOOD PRODUCTS FROM THE REGULATORY AUTHORITY OF THE  
5 MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE; TO AMEND  
6 SECTION 75-29-19, MISSISSIPPI CODE OF 1972, TO EXEMPT VENDING  
7 MACHINES AND MICRO MARKETS WHICH SALE PREPACKAGED FOOD AND OTHER  
8 FOOD PRODUCTS FROM THE REGULATORY AUTHORITY OF THE STATE BOARD OF  
9 HEALTH; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 69-1-18, Mississippi Code of 1972, is  
12 amended as follows:

13 69-1-18. (1) The following words and phrases shall have the  
14 meanings ascribed herein unless the context clearly requires  
15 otherwise:

16 (a) "Potentially hazardous food" means a food that is  
17 natural or synthetic and that requires temperature control because  
18 it is in a form capable of supporting: the growth of infectious  
19 or toxigenic microorganisms; the growth and toxin production of  
20 Clostridium botulinum; or in raw shell eggs, the growth of  
21 salmonella enteritis. "Potentially hazardous food" includes an



22 animal food (of animal origin) that is raw or heat-treated; a food  
23 of plant origin that is heat-treated or consists of raw seed  
24 sprouts; and cut melons.

25 (b) "Micro market" means an unattended, self-checkout  
26 retail establishment that utilizes an automated payment system; is  
27 located in the interior of a building that is generally not  
28 accessible by the general public, with limited access and use to a  
29 defined population; and

30 (i) Offers for sale only commercially,  
31 tamper-evident packaged food and beverages properly labeled for  
32 individual retail sale and acquired from a source approved by the  
33 United States Food and Drug Administration or an appropriate state  
34 government agency; whole, uncut, raw fruits and vegetables; such  
35 other food and beverages as may be authorized in the Food Code, as  
36 adopted by the Department of Agriculture and Commerce; and any  
37 other food and beverages not otherwise subject to any required  
38 on-site inspection;

39 (ii) Has no on-site food preparation except for  
40 the heating or reheating of food in a microwave oven;

41 (iii) May utilize beverage dispensers which  
42 provide individual servings; and

43 (iv) May utilize refrigeration and freezer units.

44 (c) "Vending Machine" means a self-service machine  
45 that, upon insertion of a coin, paper currency, token, card, or  
46 key, or by optional manual operation, dispenses servings of food



47 in bulk or in packages, or prepared by the machine, without the  
48 necessity of replenishing the machine between each vending  
49 operation.

50 ( \* \* \*d) "Retail food establishment" means any  
51 establishment where food and food products are offered for sale to  
52 the ultimate consumer and intended for off-premise consumption.  
53 Such food or food products may be exposed to varying degrees of  
54 preparation and may often need further preparation or processing  
55 after it has been purchased. A retail food establishment does not  
56 include:

57 (i) An establishment that offers only prepackaged  
58 foods that are not potentially hazardous;

59 (ii) A produce stand that only offers whole, uncut  
60 fresh fruits and vegetables;

61 (iii) A food processing plant; \* \* \*

62 (iv) A food establishment as defined by the  
63 Mississippi State Department of Health \* \* \*;

64 (v) A micro market; and

65 (vi) A vending machine.

66 (2) The commissioner and his agents shall have the  
67 authority:

68 (a) To promulgate rules and regulations establishing  
69 certain sanitation requirements for retail food establishments;

70 (b) To conduct sanitation inspections in retail food  
71 establishments; and



72 (c) To publish the names and addresses of violators and  
73 such information pertaining to violation(s) of this section as he  
74 deems appropriate.

75 (3) Each retail food establishment, before engaging in  
76 business, shall obtain a license from the commissioner. Owners of  
77 more than one (1) retail food establishment must obtain a license  
78 for each establishment. A license fee of Ten Dollars (\$10.00)  
79 must be paid to the department before a license will be issued.  
80 Application for such license shall be made on forms prescribed and  
81 furnished by the commissioner. Licenses issued under this  
82 subsection by the commissioner shall expire on June 30 each year  
83 and application for renewals thereof shall be made annually before  
84 the expiration date. Licenses shall not be transferable and  
85 application must be made for a new license if there is any change  
86 in location or ownership of the business.

87 (4) Any person who violates any provision of this law or the  
88 regulations adopted hereunder shall be guilty of a misdemeanor,  
89 and, upon conviction, shall be punished by the imposition of a  
90 fine not to exceed Five Hundred Dollars (\$500.00) or by  
91 imprisonment in the county jail for a term not to exceed six (6)  
92 months, or both.

93 (5) The commissioner may impose administrative penalties for  
94 violation of this section.

95 (6) Any person found by the commissioner to be in violation  
96 of this section may be assessed a penalty in an amount of not more



97 than Five Hundred Dollars (\$500.00) and subsequent violations  
98 within a six-month period at a penalty of not more than One  
99 Thousand Dollars (\$1,000.00). In addition to, or in lieu of, such  
100 penalties the commissioner may suspend or revoke the permit issued  
101 to such person under terms of this section.

102 (7) When any violation of this section or the rules and  
103 regulations promulgated hereunder occurs, or is about to occur,  
104 that presents a clear and present danger to the public health,  
105 safety or welfare requiring immediate action, the commissioner or  
106 any of the department's field inspectors, or any other persons  
107 authorized by the commissioner, may issue an order to be effective  
108 immediately before notice and a hearing, that imposes any or all  
109 of the following penalties against the accused: (a) a stop sale  
110 order on any product in violation of this section; (b) an order to  
111 seize any product that is not in compliance with this section and  
112 require it to be denatured or destroyed under the supervision of  
113 the department's inspectors; or (c) an order that the retail food  
114 establishment or any department within such establishment cease  
115 operations until it is in compliance with this section. The order  
116 shall be served upon the accused in accordance with Rule 4 of the  
117 Mississippi Rules of Civil Procedure or certified mail or it may  
118 be served by giving a copy of the order to the manager of the  
119 retail food establishment or, where no manager is present, an  
120 employee of the establishment. The accused shall then have twenty  
121 (20) days after service of the order upon him within which to



122 request an informal administrative review before the Director of  
123 the Bureau of Regulatory Services in the department, or the  
124 director's designee, who shall act as reviewing officer. If the  
125 accused makes such a request within such time, the reviewing  
126 officer shall provide an informal administrative review to the  
127 accused within ten (10) days after such request is made. If the  
128 accused does not request an informal administrative review within  
129 twenty (20) days, then he shall have waived his right to such  
130 review. At the informal administrative review, there shall be no  
131 court reporter or record made of the proceedings. Each party may  
132 present its case in the form of documents, oral statements or any  
133 other method. The rules of evidence shall not apply. The  
134 reviewing officer's decisions shall be in writing, and it shall be  
135 delivered by certified mail. If the accused is aggrieved by the  
136 order of the hearing officer, he may appeal to the commissioner  
137 for a full evidentiary hearing. Such appeal shall be perfected by  
138 filing a notice of appeal with the commissioner within thirty (30)  
139 days after the order of the reviewing officer is served on the  
140 appealing party. The hearing before the commissioner or his  
141 designee shall be held within a reasonable time after the appeal  
142 has been perfected. Failure to perfect an appeal within the  
143 allotted time shall be deemed a waiver of such right.

144       **SECTION 2.** Section 75-29-19, Mississippi Code of 1972, is  
145 amended as follows:



146           75-29-19. The State Board of Health is hereby charged with  
147 the enforcement of this chapter. The State Board of Health shall  
148 have the authority to establish such rules and regulations not  
149 inconsistent with this chapter as will best carry its provisions  
150 into effect, unless regulation of food as defined in this chapter  
151 is otherwise authorized by law. However, the regulatory authority  
152 provided to the board under this section shall not apply to the  
153 regulation of a vending machine or micro market as defined in  
154 Section 69-1-18, or to the food and beverages sold therefrom.

155           **SECTION 3.** This act shall take effect and be in force from  
156 and after July 1, 2019.

