

By: Representatives Rogers (61st), Baker (74th), Moore, Smith (59th), Weathersby

To: Local and Private Legislation; Ways and Means

HOUSE BILL NO. 1754

1 AN ACT TO AMEND CHAPTER 951, LOCAL AND PRIVATE LAWS OF 2005,  
2 TO EXCLUDE CONCESSION STANDS LOCATED AT ATHLETIC FACILITIES AND  
3 THEATERS FROM THE TERM "RESTAURANT" IN THE LAW THAT AUTHORIZES THE  
4 GOVERNING AUTHORITIES OF THE CITY OF PEARL, MISSISSIPPI, TO LEVY A  
5 TAX UPON THE GROSS PROCEEDS OF SALES OF RESTAURANTS IN THE AREA  
6 WITHIN THE CITY OF PEARL KNOWN AS THE WEST PEARL RESTAURANT TAX  
7 DISTRICT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Chapter 951, Local and Private Laws of 2005, is  
10 amended as follows:

11 Section 1. As used in this act, the following terms shall  
12 have the meanings ascribed to them in this section unless a  
13 different meaning is clearly indicated by the context in which  
14 they are used:

15 (a) "Governing authorities" means the Mayor and Board  
16 of Aldermen of the City of Pearl, Mississippi.

17 (b) "Restaurant" means all places, including hotel and  
18 motel dining rooms, cafeterias, cafes, lunch stands, grocery and  
19 convenience stores, where prepared food and beverages are sold for  
20 consumption, whether such food is consumed on the premises or not.  
21 The term "restaurant" does not include any school, hospital,  
22 convalescent or nursing home, or any restaurant-like facility  
23 operated by or in connection with a school, hospital, medical  
24 clinic, convalescent or nursing home providing food for students,  
25 patients, visitors or their families. The term "restaurant" shall  
26 not include a concession stand.

27 (c) "Prepared food" means food prepared on the premises  
28 of a restaurant.

29                   (d) "West Pearl Restaurant Tax District" means the  
30 following described area located in the City of Pearl, Rankin  
31 County, Mississippi:

32           Begin at a point marking the Common Corners of  
33           Sections 19, 20, 29 and 30, in Township 5 North,  
34           Range 2 East, Rankin County, Mississippi, and then  
35           proceed North along the Eastern Boundary Line of  
36           Section 19, Township 5 North, Range 2 East, Rankin  
37           County, Mississippi, and continuing North along the  
38           Eastern Boundary Line of Section 18, Township 5  
39           North, Range 2 East, Rankin County, Mississippi,  
40           until said line intersects with the Southern  
41           Boundary Line of the Right-of-Way of Old Brandon  
42           Road, and then proceed Southwesterly along the  
43           Southern Boundary Line of the Right-of-Way of Old  
44           Brandon Road until said line intersects with the  
45           East Right-of-Way line of Valentour Road, then  
46           proceed Northerly along the East Right-of-Way line  
47           of Valentour Road until it intersects the South  
48           Right-of-Way line of United States Highway 80, then  
49           proceed Westerly along the South Right-of-Way line  
50           of United States Highway 80 until it intersects the  
51           Western Boundary Line of the Corporate Limits of  
52           the City of Pearl, Mississippi, then proceed  
53           Southeasterly along the Corporate Boundary until it  
54           intersects with the East Right-of-Way line of  
55           United States Highway 49 and the South Right-of-Way  
56           line of the Railroad (currently known as the Kansas  
57           City Southern Railroad) then proceed Easterly along  
58           said Railroad Right-of-Way until reaching the  
59           Eastern Boundary Line of Section 30, Township 5  
60           North, Range 2 East, Rankin County, Mississippi,

61 then proceed North along said Section line to the  
62 Point of Beginning of the Area described herein.

63 (e) "Concession stand" means a location at an athletic  
64 facility or theater that sells drinks, snacks, sandwiches and  
65 other types of fast foods to walk-up customers and does not offer  
66 seating for dining.

67 Section 2. (1) For the purpose of providing funds to meet  
68 obligations incurred in inducing a professional baseball team to  
69 locate in the City of Pearl, to improve infrastructure in the West  
70 Pearl Restaurant Tax District and to promote tourism, economic and  
71 community development and recreation in the City of Pearl, the  
72 governing authorities are authorized, in their discretion, to levy  
73 and collect a tax upon every person, firm or corporation operating  
74 a restaurant in the West Pearl Restaurant Tax District, where  
75 prepared food and drink is sold to the public, at a rate not to  
76 exceed two percent (2%) of the gross proceeds of the sales of such  
77 restaurant.

78 (2) Persons, firms or corporations liable for the levy  
79 imposed under subsection (1) of this section shall add the amount  
80 of the levy to the sales price of the products set out in  
81 subsection (1) of this section and shall collect, insofar as is  
82 practicable, the amount of the tax due by them from the person  
83 receiving the product at the time of payment therefor.

84 (3) Such tax shall be collected by and paid to the State Tax  
85 Commission on a form prescribed by the State Tax Commission in the  
86 manner that state sales taxes are computed, collected and paid;  
87 and full enforcement provisions and all other provisions of  
88 Chapter 65, Title 27, Mississippi Code of 1972, shall apply as  
89 necessary to the implementation and administration of this act.

90 (4) The proceeds of such tax, less three percent (3%)  
91 thereof which shall be retained by the State Tax Commission to  
92 defray the cost of collection, shall be paid to the governing

93 authorities, on or before the fifteenth day of the month in which  
94 collected.

95 (5) The proceeds of such tax shall not be considered by the  
96 City of Pearl as general fund revenues but shall be dedicated to  
97 and expended solely for the purposes specified in this section.

98 Section 3. Before any tax authorized under this act may be  
99 imposed, the governing authorities shall adopt a resolution  
100 declaring their intention to levy the tax, setting forth the  
101 amount of the tax to be imposed, the date upon which the tax shall  
102 become effective and calling for an election to be held on the  
103 question. The date of the election shall be fixed in the  
104 resolution. Notice of such intention shall be published once each  
105 week for at least three (3) consecutive weeks in a newspaper  
106 published or having a general circulation in the City of Pearl,  
107 with the first publication of such notice to be made not less than  
108 twenty-one (21) days before the date fixed in the resolution for  
109 the election, and the last publication to be made not more than  
110 seven (7) days before the election. At the election, all  
111 qualified electors of the City of Pearl may vote, and the ballots  
112 used in such election shall have printed thereon a brief statement  
113 of the amount and purposes of the proposed tax levy and the words  
114 "FOR THE TAX" and, on a separate line, "AGAINST THE TAX" and the  
115 voters shall vote by placing a cross (X) or check (✓) opposite  
116 their choice on the proposition. When the results of the election  
117 shall have been canvassed and certified, the city may levy the tax  
118 if sixty percent (60%) of the qualified electors who vote in the  
119 election vote in favor of the tax. At least thirty (30) days  
120 before the effective date of the tax provided in this section, the  
121 governing authorities shall furnish to the State Tax Commission a  
122 certified copy of the resolution evidencing such tax.

123 Section 4. Accounting for receipts and expenditures of the  
124 funds described in this act must be made separately from the  
125 accounting of receipts and expenditures of the general fund and

126 any other funds of the City of Pearl. The records reflecting the  
127 receipts and expenditures of the funds prescribed in this act  
128 shall be audited annually by an independent certified public  
129 accountant, and the accountant shall make a written report of his  
130 audit to the governing authorities. The audit shall be made and  
131 completed as soon as practicable after the close of the fiscal  
132 year, and expenses of such audit shall be paid from the funds  
133 derived pursuant to this act.

134 Section 5. The governing authorities are directed to submit  
135 this act, immediately upon approval by the Governor, or upon  
136 approval by the Legislature subsequent to a veto, to the Attorney  
137 General of the United States or to the United States District  
138 Court for the District of Columbia in accordance with the  
139 provisions of the Voting Rights Act of 1965, as amended and  
140 extended.

141 Section 6. This act shall take effect and be in force from  
142 and after the date it is effectuated under Section 5 of the Voting  
143 Rights Act of 1965, as amended and extended.

144 **SECTION 2.** This act shall take effect and be in force from  
145 and after its passage.