MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Representative Zuber

To: Local and Private Legislation; Ways and Means

HOUSE BILL NO. 1809

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The proceeds of the tax may not be considered by the city as general fund revenues but must be placed into a special

fund apart from the city general fund and any other funds and expended by the city strictly for the purposes prescribed under Section 2 of this act.

SECTION 5. This act shall stand repealed from and after July 1, 2014.

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

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