

By: Senator(s) Moffatt

To: Local and Private;  
Finance

SENATE BILL NO. 3206  
(As Sent to Governor)

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.

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

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 (5) The tax shall be discontinued by the governing  
102 authorities on the first day of the month immediately succeeding  
103 the date any indebtedness, including interest, incurred by the  
104 municipality for the projects or purposes for which the governing  
105 authorities levied the tax is retired, or in the event the  
106 municipality incurs no indebtedness, the first day of the month  
107 after all obligations for such projects or purposes have been  
108 paid.

109 **SECTION 5.** The governing authorities of the City of Ocean  
110 Springs are directed to submit this act, immediately upon approval  
111 by the Governor, or upon approval by the Legislature subsequent to  
112 a veto, to the Attorney General of the United States or to the  
113 United States District Court for the District of Columbia in  
114 accordance with the provisions of the Voting Rights Act of 1965,  
115 as amended and extended.

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