

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 62

1 AN ACT TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-11,
2 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-45,
3 67-1-51 AND 67-1-77, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
4 DISTRIBUTION OF WINE BY PRIVATE ENTITIES; TO PROVIDE THE ANNUAL
5 PRIVILEGE TAX LICENSE FEE FOR A WINE DISTRIBUTOR'S PERMIT; TO
6 PROVIDE FOR AN EXCISE TAX ON WINE SOLD BY THE HOLDER OF A WINE
7 DISTRIBUTOR'S PERMIT AND THE COLLECTION OF SUCH TAX; TO REQUIRE
8 THE OPERATOR OF A VEHICLE TRANSPORTING WINE TO POSSESS AN INVOICE
9 ISSUED BY THE HOLDER OF A WINE DISTRIBUTOR'S PERMIT; TO PROVIDE
10 THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING WINE MAY BE
11 REQUIRED TO ENTER INTO A BOND PAYABLE TO THE STATE OF MISSISSIPPI
12 CONDITIONED THAT SUCH DISTRIBUTOR WILL CONDUCT HIS BUSINESS
13 LAWFULLY; TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE
14 RULES AND REGULATIONS GOVERNING THE PURCHASE FOR RESALE,
15 DISTRIBUTION AND SALE OF WINE; TO PROVIDE THAT THE STATE TAX
16 COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR OF WINE; TO
17 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE WINE DISTRIBUTOR'S
18 PERMITS; TO PROVIDE THAT SUCH PERMITS SHALL AUTHORIZE THE HOLDER
19 THEREOF TO PURCHASE WINE FROM ANY MANUFACTURER OR IMPORTER,
20 TRANSPORT WINE INTO THE STATE OF MISSISSIPPI, STORE WINE AT THE
21 PRIVATE BONDED WAREHOUSE OF SUCH PERMITTEE'S CHOICE AND SOLICIT
22 ORDERS FROM AND SELL WINE TO PERMITTEES WHO ARE AUTHORIZED TO SELL
23 WINE AT RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE KEPT FOR
24 THREE YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE ALCOHOLIC
25 BEVERAGE CONTROL DIVISION AT ANY TIME; TO REQUIRE THE HOLDER OF A
26 WINE DISTRIBUTOR'S PERMIT TO DELIVER WINE WITHIN THREE DAYS OF
27 RECEIPT OF THE ORDER; TO MAKE IT UNLAWFUL FOR A WINE DISTRIBUTOR
28 TO HAVE A FINANCIAL INTEREST IN ANY PREMISES UPON WHICH ANY
29 ALCOHOLIC BEVERAGE IS SOLD AT RETAIL; AND FOR RELATED PURPOSES.

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

31
32 SECTION 1. Section 27-71-5, Mississippi Code of 1972, is
33 amended as follows:

34 27-71-5. (1) Upon each person approved for a permit under
35 the provisions of the Alcoholic Beverage Control Law and
36 amendments thereto, there is levied and imposed for each location
37 for the privilege of engaging and continuing in this state in the
38 business authorized by such permit, an annual privilege license
39 tax in the amount provided in the following schedule:

- 40 (a) Manufacturer's permit, Class 1, distiller's and/or
- 41 rectifier's..... \$4,500.00

42	(b) Manufacturer's permit, Class 2, wine	
43	manufacturer.....	\$1,800.00
44	(c) Manufacturer's permit, Class 3, native	
45	wine manufacturer per 10,000 gallons or part thereof	
46	produced.....	\$ 10.00
47	(d) Native wine retailer's permit.....	\$ 50.00
48	(e) Package retailer's permit, each.....	\$ 900.00
49	(f) On-premises retailer's permit, except	
50	for clubs and common carriers, each.....	\$ 450.00
51	On purchases exceeding \$5,000.00 and for each	
52	additional \$5,000.00, or fraction thereof.....	\$ 225.00
53	(g) On-premises retailer's permit for wine	
54	of more than four percent (4%) alcohol by volume, but	
55	not more than twenty-one percent (21%) alcohol by	
56	volume (each).....	\$ 225.00
57	On purchases exceeding \$5,000.00 and for each	
58	additional \$5,000.00, or fraction thereof.....	\$ 225.00
59	(h) On-premises retailer's permit for clubs..	\$ 225.00
60	On purchases exceeding \$5,000.00 and for each	
61	additional \$5,000.00, or fraction thereof.....	\$ 225.00
62	(i) On-premises retailer's permit for common	
63	carriers, per car, plane, or other vehicle.....	\$ 120.00
64	(j) Solicitor's permit, regardless of any other	
65	provision of law, solicitor's permits shall be issued	
66	only in the discretion of the commission.....	\$ 100.00
67	(k) Filing fee for each application except	
68	for an employee identification card.....	\$ 25.00
69	(l) Temporary permit, Class 1, each.....	\$ 10.00
70	(m) Temporary permit, Class 2, each.....	\$ 50.00
71	On-premises purchases exceeding \$5,000.00 and	
72	for each additional \$5,000.00, or fraction thereof.....	\$ 225.00
73	(n) (i) Caterer's permit.....	\$ 600.00
74	On purchases exceeding \$5,000.00 and for each	
75	additional \$5,000.00, or fraction thereof.....	\$ 250.00

76	(ii) Caterer's permit for holders of	
77	on-premises retailer's permit.....	\$ 150.00
78	On purchases exceeding \$5,000.00 and for each	
79	additional \$5,000.00, or fraction thereof.....	\$ 250.00
80	(o) Research permit.....	\$ 100.00
81	(p) Filing fee for each application for an employee	
82	identification card.....	\$ 5.00
83	<u>(q) Wine distributor's permit.....</u>	<u>\$1,800.00</u>

84 In addition to the filing fee imposed by item (k) of this
85 subsection, a fee to be determined by the State Tax Commission may
86 be charged to defray costs incurred to process applications. Such
87 additional fees shall be paid into the State Treasury to the
88 credit of a special fund account, which is hereby created, and
89 expenditures therefrom shall be made only to defray the costs
90 incurred by the State Tax Commission in processing alcoholic
91 beverage applications. Any unencumbered balance remaining in the
92 special fund account on June 30 of any fiscal year shall lapse
93 into the State General Fund.

94 All privilege taxes herein imposed shall be paid in advance
95 of doing business. The additional privilege tax imposed for an
96 on-premises retailer's permit based upon purchases shall be due
97 and payable on demand.

98 Any person who has paid the additional privilege license tax
99 imposed by item (f), (g), (h), (m) or (n) of this subsection, and
100 whose permit is renewed, may add any unused fraction of Five
101 Thousand Dollars (\$5,000.00) purchases to the first Five Thousand
102 Dollars (\$5,000.00) purchases authorized by the renewal permit,
103 and no additional license tax will be required until purchases
104 exceed the sum of the two (2) figures.

105 (2) There is imposed and shall be collected from each
106 permittee, except a common carrier, solicitor, holder of an
107 employee identification card or a temporary permittee, by the
108 commission, an additional license tax equal to the amounts imposed
109 under subsection (1) of this section for the privilege of doing

110 business within any municipality or county in which the licensee
111 is located. If the licensee is located within a municipality, the
112 commission shall pay the amount of additional license tax to the
113 municipality, and if outside a municipality the commission shall
114 pay the additional license tax to the county in which the licensee
115 is located. Payments by the commission to the respective local
116 government subdivisions shall be made once each month for any
117 collections during the preceding month.

118 (3) When an application for any permit, other than for
119 renewal of a permit, has been rejected by the commission, such
120 decision shall be final. Appeal may be made in the manner
121 provided by Section 67-1-39. Another application from an
122 applicant who has been denied a permit shall not be reconsidered
123 within a twelve-month period.

124 (4) The number of permits issued by the commission shall not
125 be restricted or limited on a population basis; however, the
126 foregoing limitation shall not be construed to preclude the right
127 of the commission to refuse to issue a permit because of the
128 undesirability of the proposed location.

129 (5) If any person shall engage or continue in any business
130 which is taxable hereunder without having paid the tax as provided
131 herein, such person shall be liable for the full amount of such
132 tax plus a penalty thereon equal to the amount thereof, and, in
133 addition, shall be punished by a fine of not more than One
134 Thousand Dollars (\$1,000.00), or by imprisonment in the county
135 jail for a term of not more than six (6) months, or by both such
136 fine and imprisonment, in the discretion of the court.

137 (6) It shall be unlawful for any person to consume alcoholic
138 beverages on the premises of any hotel restaurant, restaurant,
139 club or the interior of any public place defined in Chapter 1,
140 Title 67, Mississippi Code of 1972, when the owner or manager
141 thereof displays in several conspicuous places inside said
142 establishment and at the entrances thereto a sign containing the
143 following language: NO ALCOHOLIC BEVERAGES ALLOWED.

144 SECTION 2. Section 27-71-7, Mississippi Code of 1972, is
145 amended as follows:

146 27-71-7. (1) There is hereby levied and assessed an excise
147 tax upon each case of alcoholic beverages sold by the commission
148 or the holder of a wine distributor's permit to be collected from
149 each retail licensee at the time of sale in accordance with the
150 following schedule:

- 151 (a) Distilled spirits..... \$2.50 per gallon
- 152 (b) Sparkling wine and champagne..... \$1.00 per gallon
- 153 (c) Other wines, including native
154 wines..... \$.35 per gallon

155 (2) (a) In addition to the tax levied by subsection (1) of
156 this section, and in addition to any other markup collected, the
157 Alcoholic Beverage Control Division and the holder of a wine
158 distributor's permit shall collect a markup of three percent (3%)
159 on all alcoholic beverages, as defined in Section 67-1-5,
160 Mississippi Code of 1972, which are sold by the division or the
161 holder of a wine distributor's permit. The proceeds of the markup
162 shall be collected by the division or the holder of a wine
163 distributor's permit, as appropriate, from each purchaser at the
164 time of purchase.

165 (b) Until June 30, 1987, the revenue derived from this
166 three percent (3%) markup shall be deposited by the division in
167 the State Treasury to the credit of the "Alcoholism Treatment and
168 Rehabilitation Fund," a special fund which is hereby created in
169 the State Treasury, and shall be used by the Division of Alcohol
170 and Drug Abuse of the State Department of Mental Health and public
171 or private centers or organizations solely for funding of
172 treatment and rehabilitation programs for alcoholics and alcohol
173 abusers which are sponsored by the division or public or private
174 centers or organizations in such amounts as the Legislature may
175 appropriate to the division for use by the division or public or
176 private centers or organizations for such programs. Any tax
177 revenue in the fund which is not encumbered at the end of the

178 fiscal year shall lapse to the General Fund. It is the intent of
179 the Legislature that the State Department of Mental Health shall
180 continue to seek funds from other sources and shall use the funds
181 appropriated for the purposes of this section and Section 27-71-29
182 to match all federal funds which may be available for alcoholism
183 treatment and rehabilitation.

184 From and after July 1, 1987, the revenue derived from this
185 three percent (3%) markup shall be deposited by the division in
186 the State Treasury to the credit of the "Mental Health Programs
187 Fund," a special fund which is hereby created in the State
188 Treasury and shall be used by the State Department of Mental
189 Health for the service programs of the department. Any revenue in
190 the "Alcoholism Treatment and Rehabilitation Fund" which is not
191 encumbered at the end of fiscal year 1987 shall be deposited to
192 the credit of the "Mental Health Programs Fund."

193 (3) If the tax and markup provided for in subsections (1)
194 and (2) of this section are collected by the holder of a wine
195 distributor's permit, the proceeds of such tax and markup shall be
196 remitted to the State Tax Commission on or before the fifteenth
197 day of the month following the month in which the tax and markup
198 were collected.

199 SECTION 3. Section 27-71-11, Mississippi Code of 1972, is
200 amended as follows:

201 27-71-11. The commission shall from time to time by
202 resolution request the State Bond Commission to provide sufficient
203 funds required to maintain an adequate alcoholic beverage
204 inventory. Said funds shall be provided under the provisions of
205 Chapter 557, Laws of 1966.

206 The commission shall add to the cost of all alcoholic
207 beverages it distributes a markup of twenty-seven and one-half
208 percent (27-1/2%), inclusive of the three percent (3%) markup
209 imposed by Section 27-71-7(2).

210 The commission shall sell alcoholic beverages at uniform
211 prices throughout the state.

212 SECTION 4. Section 27-71-15, Mississippi Code of 1972, is
213 amended as follows:

214 27-71-15. Except as otherwise provided in Section 67-9-1 for
215 the transportation of limited amounts of alcoholic beverages for
216 the use of an alcohol processing permittee, if transportation
217 requires passage through a county which has not authorized the
218 sale of alcoholic beverages, such transportation shall be by a
219 sealed vehicle. Such seal shall remain unbroken until the vehicle
220 shall reach the place of business operated by the permittee. The
221 operator of any vehicle transporting alcoholic beverages shall
222 have in his possession an invoice issued by the commission or the
223 holder of a wine distributor's permit at the time of the wholesale
224 sale covering the merchandise transported by the vehicle. The
225 commission is authorized to issue regulations controlling the
226 transportation of alcoholic beverages.

227 When the restrictions imposed by this section and by the
228 regulation of the commission have not been violated, the person
229 transporting alcoholic beverages through a county wherein the sale
230 of alcoholic beverages is prohibited shall not be guilty of
231 unlawful possession and such merchandise shall be immune from
232 seizure.

233 SECTION 5. Section 27-71-21, Mississippi Code of 1972, is
234 amended as follows:

235 27-71-21. Before any person shall engage in the business of
236 manufacturing or retailing of alcoholic beverages or distributing
237 wine, he may be required to enter into a bond payable to the State
238 of Mississippi, conditioned that he will conduct said business
239 strictly in accordance with the laws of the State of Mississippi,
240 and that he will comply with the rules and regulations prescribed
241 by the commission, and pay all taxes due the State of Mississippi.

242 The amount of a bond required of a wine distributor or a
243 manufacturer, not including a producer of native wine, shall not
244 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount
245 required of a retailer shall be Five Thousand Dollars (\$5,000.00).

246 Provided, however, any retailer whose check for purchase of
247 merchandise or payment of taxes shall be dishonored may be
248 required by the commission to post additional bond not to exceed
249 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
250 surety company authorized to do business in the State of
251 Mississippi and shall be approved by the commission. The
252 commission shall be authorized to institute suit in the proper
253 court for any violation of the condition of said bonds. The
254 amount of the bond required of a producer of native wine shall be
255 Five Thousand Dollars (\$5,000.00).

256 As an alternative to entering into a bond as required by this
257 section, any person who shall engage in the business of
258 manufacturing or retailing alcoholic beverages or distributing
259 wine may, subject to the same conditions of conduct required for
260 bonds, deposit with the State Treasurer the equivalent amount of
261 the bond required for that particular person in cash or
262 securities. The only securities allowable for this purpose are
263 those which may legally be purchased by a bank or for trust funds,
264 having a market value not less than that of the required bond.
265 The commission shall file notice with the Treasurer for any
266 violation of the conditions of the cash or security deposit.

267 SECTION 6. Section 67-1-5, Mississippi Code of 1972, is
268 amended as follows:

269 67-1-5. For the purposes of this chapter and unless
270 otherwise required by the context:

271 (a) * * * "Alcoholic beverage" means any alcoholic
272 liquid, including wines of more than five percent (5%) of alcohol
273 by weight, capable of being consumed as a beverage by a human
274 being, but shall not include wine containing five percent (5%) or
275 less of alcohol by weight and shall not include beer containing
276 not more than five percent (5%) of alcohol by weight, as provided
277 for in Section 67-3-5, Mississippi Code of 1972, but shall include
278 native wines. The words "alcoholic beverage" shall not include
279 ethyl alcohol manufactured or distilled solely for fuel purposes.

280 (b) * * * "Alcohol" means the product of distillation
281 of any fermented liquid, whatever the origin thereof, and includes
282 synthetic ethyl alcohol, but does not include denatured alcohol or
283 wood alcohol.

284 (c) * * * "Distilled spirits" means any beverage
285 containing more than four percent (4%) of alcohol by weight
286 produced by distillation of fermented grain, starch, molasses or
287 sugar, including dilutions and mixtures of these beverages.

288 (d) * * * "Wine" or "vinous liquor" means any product
289 obtained from the alcoholic fermentation of the juice of sound,
290 ripe grapes, fruits or berries and made in accordance with the
291 revenue laws of the United States.

292 (e) * * * "Person" means and includes any individual,
293 partnership, corporation, association or other legal entity
294 whatsoever.

295 (f) * * * "Manufacturer" means any person engaged in
296 manufacturing, distilling, rectifying, blending or bottling any
297 alcoholic beverage.

298 (g) * * * "Wholesaler" means any person, other than a
299 manufacturer, engaged in distributing or selling any alcoholic
300 beverage at wholesale for delivery within or without this state
301 when such sale is for the purpose of resale by the purchaser.

302 (h) * * * "Retailer" means any person who sells,
303 distributes, or offers for sale or distribution, any alcoholic
304 beverage for use or consumption by the purchaser and not for
305 resale.

306 (i) * * * "Commission" means the State Tax Commission
307 of the State of Mississippi, which shall create a division in its
308 organization to be known as the Alcoholic Beverage Control
309 Division. Any reference to the commission hereafter means the
310 powers and duties of the State Tax Commission with reference to
311 supervision of the Alcoholic Beverage Control Division.

312 (j) * * * "Division" means the Alcoholic Beverage
313 Control Division of the State Tax Commission.

314 (k) * * * "Municipality" means any incorporated city or
315 town of this state.

316 (l) * * * "Hotel" means an establishment within a
317 municipality, or within a qualified resort area approved as such
318 by the commission, where, in consideration of payment, food and
319 lodging are habitually furnished to travelers and wherein are
320 located at least twenty (20) adequately furnished and completely
321 separate sleeping rooms with adequate facilities that persons
322 usually apply for and receive as overnight accommodations. Hotels
323 in towns or cities of more than twenty-five thousand (25,000)
324 population are similarly defined except that they must have fifty
325 (50) or more sleeping rooms. Any such establishment described in
326 this paragraph with less than fifty (50) beds shall operate one or
327 more regular dining rooms designed to be constantly frequented by
328 customers each day. When used in this chapter, the word "hotel"
329 shall also be construed to include any establishment that meets
330 the definition of "bed and breakfast inn" as provided in this
331 section.

332 (m) * * * "Restaurant" means a place which is regularly
333 and in a bona fide manner used and kept open for the serving of
334 meals to guests for compensation, which has suitable seating
335 facilities for guests, and which has suitable kitchen facilities
336 connected therewith for cooking an assortment of foods and meals
337 commonly ordered at various hours of the day; the service of such
338 food as sandwiches and salads only shall not be deemed in
339 compliance with this requirement. No place shall qualify as a
340 restaurant under this chapter unless twenty-five percent (25%) or
341 more of the revenue derived from such place shall be from the
342 preparation, cooking and serving of meals and not from the sale of
343 beverages, or unless the value of food given to and consumed by
344 customers is equal to twenty-five percent (25%) or more of total
345 revenue.

346 (n) * * * "Club" means an association or a corporation:

347 (i) Organized or created under the laws of this

348 state for a period of five (5) years prior to July 1, 1966;

349 (ii) Organized not primarily for pecuniary profit
350 but for the promotion of some common object other than the sale or
351 consumption of alcoholic beverages;

352 (iii) Maintained by its members through the
353 payment of annual dues;

354 (iv) Owning, hiring or leasing a building or space
355 in a building of such extent and character as may be suitable and
356 adequate for the reasonable and comfortable use and accommodation
357 of its members and their guests;

358 (v) The affairs and management of which are
359 conducted by a board of directors, board of governors, executive
360 committee, or similar governing body chosen by the members at a
361 regular meeting held at some periodic interval; and

362 (vi) No member, officer, agent or employee of
363 which is paid, or directly or indirectly receives, in the form of
364 a salary or other compensation any profit from the distribution or
365 sale of alcoholic beverages to the club or to members or guests of
366 the club beyond such salary or compensation as may be fixed and
367 voted at a proper meeting by the board of directors or other
368 governing body out of the general revenues of the club.

369 The commission may, in its discretion, waive the five-year
370 provision of this paragraph. In order to qualify under this
371 paragraph, a club must file with the commission, at the time of
372 its application for a license under this chapter, two (2) copies
373 of a list of the names and residences of its members and similarly
374 file, within ten (10) days after the election of any additional
375 member, his name and address. Each club applying for a license
376 shall also file with the commission at the time of the application
377 a copy of its articles of association, charter of incorporation,
378 bylaws or other instruments governing the business and affairs
379 thereof.

380 (o) * * * "Qualified resort area" means any area or
381 locality outside of the limits of incorporated municipalities in

382 this state commonly known and accepted as a place which regularly
383 and customarily attracts tourists, vacationists and other
384 transients because of its historical, scenic or recreational
385 facilities or attractions, or because of other attributes which
386 regularly and customarily appeal to and attract tourists,
387 vacationists and other transients in substantial numbers; however,
388 no area or locality shall so qualify as a resort area until it has
389 been duly and properly approved as such by the commission.

390 (i) The commission may approve an area or locality
391 outside of the limits of an incorporated municipality that is in
392 the process of being developed as a qualified resort area if such
393 area or locality, when developed, can reasonably be expected to
394 meet the requisites of the definition of the term "qualified
395 resort area." In such a case, the status of qualified resort area
396 shall not take effect until completion of the development.

397 (ii) The term includes any state park which is
398 declared a resort area by the commission; however, such
399 declaration may only be initiated in a written request for resort
400 area status made to the commission by the Executive Director of
401 the Department of Wildlife, Fisheries and Parks, and no permit for
402 the sale of any alcoholic beverage, as defined in this chapter,
403 except an on-premises retailer's permit, shall be issued for a
404 hotel, restaurant or bed and breakfast inn in such park.

405 (iii) The term includes the clubhouses associated
406 with the state park golf courses at the Lefleur's Bluff State
407 Park, the John Kyle State Park and the Percy Quin State Park. The
408 status of these clubhouses as qualified resort areas does not
409 require any declaration of same by the commission.

410 (p) * * * "Native wine" * * * means any product,
411 produced in Mississippi for sale, having an alcohol content not to
412 exceed twenty-one percent (21%) by weight and made in accordance
413 with revenue laws of the United States, which shall be obtained
414 primarily from the alcoholic fermentation of the juice of ripe
415 grapes, fruits, berries or vegetables grown and produced in

416 Mississippi; provided that bulk, concentrated or fortified wines
417 used for blending may be produced without this state and used in
418 producing native wines. The commission shall adopt and promulgate
419 rules and regulations to permit a producer to import such bulk
420 and/or fortified wines into this state for use in blending with
421 native wines without payment of any excise tax that would
422 otherwise accrue thereon.

423 (q) * * * "Native winery" * * * means any place or
424 establishment within the State of Mississippi where native wine is
425 produced in whole or in part for sale.

426 (r) * * * "Bed and breakfast inn" means an
427 establishment within a municipality where in consideration of
428 payment, breakfast and lodging are habitually furnished to
429 travelers and wherein are located not less than eight (8) and not
430 more than nineteen (19) adequately furnished and completely
431 separate sleeping rooms with adequate facilities, that persons
432 usually apply for and receive as overnight accommodations;
433 however, such restriction on the minimum number of sleeping rooms
434 shall not apply to establishments on the National Register of
435 Historic Places. No place shall qualify as a bed and breakfast
436 inn under this chapter unless on the date of the initial
437 application for a license under this chapter more than fifty
438 percent (50%) of the sleeping rooms are located in a structure
439 formerly used as a residence.

440 (s) "Wine distributor" means a person engaged in
441 purchasing, transporting and storing wine or vinous liquor within
442 the State of Mississippi and selling at wholesale wine or vinous
443 liquor to permittees who are authorized to sell wine at retail.

444 SECTION 7. Section 67-1-9, Mississippi Code of 1972, is
445 amended as follows:

446 67-1-9. (1) It shall be unlawful for any person to
447 manufacture, distill, brew, sell, possess, import into this state,
448 export from the state, transport, distribute, warehouse, store,
449 solicit, take order for, bottle, rectify, blend, treat, mix or

450 process any alcoholic beverage except as authorized in this
451 chapter. However, nothing contained herein shall prevent
452 importers, wineries and distillers of alcoholic beverages from
453 storing such alcoholic beverages in private bonded warehouses
454 located within the State of Mississippi for the ultimate use and
455 benefit of the State Tax Commission as provided in Section
456 67-1-41, and nothing contained herein shall prohibit the holder of
457 a wine distributor's permit from storing wine in private bonded
458 warehouses located in the State of Mississippi for resale to
459 authorized permittees. The commission is hereby authorized to
460 promulgate rules and regulations for the establishment of such
461 private bonded warehouses and for the control of alcoholic
462 beverages stored in such warehouses. Additionally, nothing herein
463 contained shall prevent any duly licensed practicing physician or
464 dentist from possessing or using alcoholic liquor in the strict
465 practice of his profession, or prevent any hospital or other
466 institution caring for sick and diseased persons, from possessing
467 and using alcoholic liquor for the treatment of bona fide patients
468 of such hospital or other institution. Any drugstore employing a
469 licensed pharmacist may possess and use alcoholic liquors in the
470 combination of prescriptions of duly licensed physicians. The
471 possession and dispensation of wine by an authorized
472 representative of any church for the purpose of conducting any
473 bona fide rite or religious ceremony conducted by such church
474 shall not be prohibited by this chapter.

475 (2) Any person, upon conviction of any provision of this
476 section, shall be punished as follows:

477 (a) By a fine of not less than One Hundred Dollars
478 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
479 imprisonment in the county jail not less than one (1) week nor
480 more than three (3) months, or both, for the first conviction
481 under this section.

482 (b) By a fine of not less than One Hundred Dollars
483 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by

484 imprisonment in the county jail not less than sixty (60) days, nor
485 more than six (6) months, or both fine and imprisonment, for the
486 second conviction for violating this section.

487 (c) By a fine of not less than One Hundred Dollars
488 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
489 imprisonment in the State Penitentiary not less than one (1) year,
490 nor more than five (5) years, or both fine and imprisonment, for
491 conviction the third time under this section for the violation
492 thereof after having been twice convicted of its violation.

493 SECTION 8. Section 67-1-37, Mississippi Code of 1972, is
494 amended as follows:

495 **[Through June 30, 2000, this section shall read as follows:]**

496 67-1-37. The State Tax Commission, under its duties and
497 powers with respect to the Alcoholic Beverage Control Division
498 therein, shall have the following powers, functions and duties:

499 (a) To issue or refuse to issue any permit provided for
500 by this chapter, or to extend the permit or remit in whole or any
501 part of the permit monies when the permit cannot be used due to a
502 natural disaster or Act of God.

503 (b) To revoke, suspend or cancel, for violation of or
504 noncompliance with the provisions of this chapter, or the law
505 governing the production and sale of native wines, or any lawful
506 rules and regulations of the commission issued hereunder, or for
507 other sufficient cause, any permit issued by it under the
508 provisions of this chapter; however, no such permit shall be
509 revoked, suspended or cancelled except after a hearing of which
510 the permit holder shall have been given reasonable notice and an
511 opportunity to be heard. The commission shall be authorized to
512 suspend the permit of any permit holder for being out of
513 compliance with an order for support, as defined in Section
514 93-11-153. The procedure for suspension of a permit for being out
515 of compliance with an order for support, and the procedure for the
516 reissuance or reinstatement of a permit suspended for that
517 purpose, and the payment of any fees for the reissuance or

518 reinstatement of a permit suspended for that purpose, shall be
519 governed by Section 93-11-157 or 93-11-163, as the case may be.
520 If there is any conflict between any provision of Section
521 93-11-157 or 93-11-163 and any provision of this chapter, the
522 provisions of Section 93-11-157 or 93-11-163, as the case may be,
523 shall control.

524 (c) To prescribe forms of permits and applications for
525 permits and of all reports which it deems necessary in
526 administering this chapter.

527 (d) To fix standards, not in conflict with those
528 prescribed by any law of this state or of the United States, to
529 secure the use of proper ingredients and methods of manufacture of
530 alcoholic beverages.

531 (e) To issue rules regulating the advertising of
532 alcoholic beverages in the state in any class of media and
533 permitting advertising of the retail price of alcoholic beverages.

534 (f) To issue reasonable rules and regulations, not
535 inconsistent with the federal laws or regulations, requiring
536 informative labeling of all alcoholic beverages offered for sale
537 within this state and providing for the standards of fill and
538 shapes of retail containers of alcoholic beverages; however, such
539 containers shall not contain less than fifty (50) milliliters by
540 liquid measure.

541 (g) Subject to the provisions of * * * Section
542 67-1-51(3), to issue rules and regulations governing the issuance
543 of retail permits for premises located near or around schools,
544 colleges, universities, churches and other public institutions,
545 and specifying the distances therefrom within which no such permit
546 shall be issued. The alcoholic beverage control division shall
547 not allow the sale or consumption of alcoholic beverages in or on
548 the campus of any public school or college, and no alcoholic
549 beverage shall be for sale or consumed at any public athletic
550 event at any grammar or high school or any college.

551 (h) To adopt and promulgate, repeal and amend, such

552 rules, regulations, standards, requirements and orders, not
553 inconsistent with this chapter or any law of this state or of the
554 United States, as it deems necessary to control the manufacture,
555 importation, transportation, distribution and sale of alcoholic
556 liquor, whether intended for beverage or nonbeverage use in a
557 manner not inconsistent with the provisions of this chapter or any
558 other statute, including the native wine laws.

559 (i) To call upon other administrative departments of
560 the state, county and municipal governments, county and city
561 police departments and upon prosecuting officers for such
562 information and assistance as it may deem necessary in the
563 performance of its duties.

564 (j) To prepare and submit to the Governor during the
565 month of January of each year a detailed report of its official
566 acts during the preceding fiscal year ending June 30, including
567 such recommendations as it may see fit to make, and to transmit a
568 like report to each member of the Legislature of this state upon
569 the convening thereof at its next regular session.

570 (k) To inspect, or cause to be inspected, any premises
571 where alcoholic liquors intended for sale are manufactured,
572 stored, distributed or sold, and to examine or cause to be
573 examined all books and records pertaining to the business
574 conducted therein.

575 (l) In the conduct of any hearing authorized to be held
576 by the commission, to hear testimony and take proof material for
577 its information in the discharge of its duties under this chapter;
578 to issue subpoenas, which shall be effective in any part of this
579 state, requiring the attendance of witnesses and the production of
580 books and records; to administer or cause to be administered
581 oaths; and to examine or cause to be examined any witness under
582 oath. Any court of record, or any judge thereof, may by order
583 duly entered require the attendance of witnesses and the
584 production of relevant books subpoenaed by the commission, and
585 such court or judge may compel obedience to its or his order by

586 proceedings for contempt.

587 (m) To investigate the administration of laws in
588 relation to alcoholic liquors in this and other states and any
589 foreign countries, and to recommend from time to time to the
590 Governor and through him to the Legislature of this state such
591 amendments to this chapter, if any, as it may think desirable.

592 (n) To designate hours and days when alcoholic
593 beverages may be sold in different localities in the state which
594 permit such sale.

595 (o) To assign employees to posts of duty at locations
596 where they will be most beneficial for the control of alcoholic
597 beverages, to remove, to dismiss, to suspend without pay, to act
598 as a trial board in hearings based upon charges against employees.
599 After twelve (12) months' service, no employee shall be removed,
600 dismissed, demoted or suspended without just cause and only after
601 being furnished with reasons for such removal, dismissal, demotion
602 or suspension, and upon request given a hearing in his own
603 defense.

604 (p) All hearings conducted by the commission shall be
605 open to the public, and, when deemed necessary, a written
606 transcript shall be made of the testimony introduced thereat.

607 (q) To adopt and promulgate rules and regulations for
608 suspension or revocation of identification cards of employees of
609 permittees for violations of the alcoholic beverage control laws,
610 rules or regulations.

611 (r) To enforce the provisions made unlawful by Section
612 67-3-53.

613 (s) To adopt and promulgate rules and regulations
614 governing the purchase for resale, distribution and sale of wine
615 or vinous liquor.

616 **[From and after July 1, 2000, this section shall read as**
617 **follows:]**

618 67-1-37. The State Tax Commission, under its duties and
619 powers with respect to the Alcoholic Beverage Control Division

620 therein, shall have the following powers, functions and duties:

621 (a) To issue or refuse to issue any permit provided for
622 by this chapter, or to extend the permit or remit in whole or any
623 part of the permit monies when the permit cannot be used due to a
624 natural disaster or Act of God.

625 (b) To revoke, suspend or cancel, for violation of or
626 noncompliance with the provisions of this chapter, or the law
627 governing the production and sale of native wines, or any lawful
628 rules and regulations of the commission issued hereunder, or for
629 other sufficient cause, any permit issued by it under the
630 provisions of this chapter; however, no such permit shall be
631 revoked, suspended or cancelled except after a hearing of which
632 the permit holder shall have been given reasonable notice and an
633 opportunity to be heard. The commission shall be authorized to
634 suspend the permit of any permit holder for being out of
635 compliance with an order for support, as defined in Section
636 93-11-153. The procedure for suspension of a permit for being out
637 of compliance with an order for support, and the procedure for the
638 reissuance or reinstatement of a permit suspended for that
639 purpose, and the payment of any fees for the reissuance or
640 reinstatement of a permit suspended for that purpose, shall be
641 governed by Section 93-11-157 or 93-11-163, as the case may be.
642 If there is any conflict between any provision of Section
643 93-11-157 or 93-11-163 and any provision of this chapter, the
644 provisions of Section 93-11-157 or 93-11-163, as the case may be,
645 shall control.

646 (c) To prescribe forms of permits and applications for
647 permits and of all reports which it deems necessary in
648 administering this chapter.

649 (d) To fix standards, not in conflict with those
650 prescribed by any law of this state or of the United States, to
651 secure the use of proper ingredients and methods of manufacture of
652 alcoholic beverages.

653 (e) To issue rules regulating the advertising of

654 alcoholic beverages in the state in any class of media and
655 permitting advertising of the retail price of alcoholic beverages.

656 (f) To issue reasonable rules and regulations, not
657 inconsistent with the federal laws or regulations, requiring
658 informative labeling of all alcoholic beverages offered for sale
659 within this state and providing for the standards of fill and
660 shapes of retail containers of alcoholic beverages; however, such
661 containers shall not contain less than fifty (50) milliliters by
662 liquid measure.

663 (g) Subject to the provisions of * * * Section
664 67-1-51(3), to issue rules and regulations governing the issuance
665 of retail permits for premises located near or around schools,
666 colleges, universities, churches and other public institutions,
667 and specifying the distances therefrom within which no such permit
668 shall be issued. The alcoholic beverage control division shall
669 not allow the sale or consumption of alcoholic beverages in or on
670 the campus of any public school or college, and no alcoholic
671 beverage shall be for sale or consumed at any public athletic
672 event at any grammar or high school or any college.

673 (h) To adopt and promulgate, repeal and amend, such
674 rules, regulations, standards, requirements and orders, not
675 inconsistent with this chapter or any law of this state or of the
676 United States, as it deems necessary to control the manufacture,
677 importation, transportation, distribution and sale of alcoholic
678 liquor, whether intended for beverage or nonbeverage use in a
679 manner not inconsistent with the provisions of this chapter or any
680 other statute, including the native wine laws.

681 (i) To call upon other administrative departments of
682 the state, county and municipal governments, county and city
683 police departments and upon prosecuting officers for such
684 information and assistance as it may deem necessary in the
685 performance of its duties.

686 (j) To prepare and submit to the Governor during the
687 month of January of each year a detailed report of its official

688 acts during the preceding fiscal year ending June 30, including
689 such recommendations as it may see fit to make, and to transmit a
690 like report to each member of the Legislature of this state upon
691 the convening thereof at its next regular session.

692 (k) To inspect, or cause to be inspected, any premises
693 where alcoholic liquors intended for sale are manufactured,
694 stored, distributed or sold, and to examine or cause to be
695 examined all books and records pertaining to the business
696 conducted therein.

697 (l) In the conduct of any hearing authorized to be held
698 by the commission, to hear testimony and take proof material for
699 its information in the discharge of its duties under this chapter;
700 to issue subpoenas, which shall be effective in any part of this
701 state, requiring the attendance of witnesses and the production of
702 books and records; to administer or cause to be administered
703 oaths; and to examine or cause to be examined any witness under
704 oath. Any court of record, or any judge thereof, may by order
705 duly entered require the attendance of witnesses and the
706 production of relevant books subpoenaed by the commission, and
707 such court or judge may compel obedience to its or his order by
708 proceedings for contempt.

709 (m) To investigate the administration of laws in
710 relation to alcoholic liquors in this and other states and any
711 foreign countries, and to recommend from time to time to the
712 Governor and through him to the Legislature of this state such
713 amendments to this chapter, if any, as it may think desirable.

714 (n) To designate hours and days when alcoholic
715 beverages may be sold in different localities in the state which
716 permit such sale.

717 (o) To assign employees to posts of duty at locations
718 where they will be most beneficial for the control of alcoholic
719 beverages, to remove, to dismiss, to suspend without pay, to act
720 as a trial board in hearings based upon charges against employees.
721 After twelve (12) months' service, no employee shall be removed,

722 dismissed, demoted or suspended without just cause and only after
723 being furnished with reasons for such removal, dismissal, demotion
724 or suspension, and upon request given a hearing in his own
725 defense.

726 (p) All hearings conducted by the commission shall be
727 open to the public, and, when deemed necessary, a written
728 transcript shall be made of the testimony introduced thereat.

729 (q) To adopt and promulgate rules and regulations for
730 suspension or revocation of identification cards of employees of
731 permittees for violations of the alcoholic beverage control laws,
732 rules or regulations.

733 (r) To adopt and promulgate rules and regulations
734 governing the purchase for resale, distribution and sale of wine
735 or vinous liquor.

736 SECTION 9. Section 67-1-41, Mississippi Code of 1972, is
737 amended as follows:

738 67-1-41. (1) The State Tax Commission is hereby created a
739 wholesale distributor and seller of alcoholic beverages, not
740 including malt liquors and wine or vinous liquor, within the State
741 of Mississippi. It is granted the sole right to import and sell
742 such intoxicating liquors at wholesale within the state, and no
743 person who is granted the right to sell, distribute or receive
744 such liquors at retail shall purchase any such intoxicating
745 liquors from any source other than the commission except as
746 authorized in subsections (4) and (9) of this section, provided
747 that retailers and consumers may purchase native wines directly
748 from the producer. The commission may establish warehouses,
749 purchase intoxicating liquors in such quantities and from such
750 sources as it may deem desirable and sell the same to authorized
751 permittees within the state including, at the discretion of the
752 commission, any retail distributors operating within any military
753 post or qualified resort areas within the boundaries of the state,
754 keeping a correct and accurate record of all such transactions and
755 exercising such control over the distribution of alcoholic

756 beverages as seem right and proper in keeping with the provisions
757 or purposes of this chapter.

758 The commission is empowered to borrow such working capital as
759 may be required, not to exceed the sum of Nine Hundred Thousand
760 Dollars (\$900,000.00). Such loan shall be repaid from the
761 earnings of the wholesale liquor business.

762 The commission is hereby authorized to use and to promulgate
763 rules for the affixing of identification stamps to each container
764 of alcoholic liquor.

765 (2) No person for the purpose of sale shall manufacture,
766 distill, brew, sell, possess, export, transport, distribute,
767 warehouse, store, solicit, take orders for, bottle, rectify,
768 blend, treat, mix or process any alcoholic beverage except in
769 accordance with authority granted under this chapter, or as
770 otherwise provided by law for native wines.

771 (3) No alcoholic beverage intended for sale or resale shall
772 be imported, shipped or brought into this state for delivery to
773 any person other than as provided in this chapter, or as otherwise
774 provided by law for native wines.

775 (4) The commission may promulgate rules and regulations
776 which authorize on-premises retailers to purchase limited amounts
777 of alcoholic beverages from package retailers located within the
778 county and for package retailers to purchase limited amounts of
779 alcoholic beverages from other package retailers located within
780 the county. The commission shall develop and provide forms to be
781 completed by the on-premises retailers and the package retailers
782 verifying the transaction. The completed forms shall be forwarded
783 to the commission within a period of time prescribed by the
784 commission.

785 (5) The commission may promulgate rules which authorize the
786 holder of a package retailer's permit to permit individual retail
787 purchasers of packages of alcoholic beverages to return, for
788 exchange, credit or refund, limited amounts of original sealed and
789 unopened packages of alcoholic beverages purchased by such

790 individual from the package retailer.

791 (6) The commission shall maintain all forms to be completed
792 by applicants necessary for licensure by the commission at all
793 district offices of the commission.

794 (7) The commission may promulgate rules which authorize the
795 manufacturer of an alcoholic beverage or wine to import, transport
796 and furnish or give a sample of alcoholic beverages or wines to
797 the holders of package retailer's permits, on-premises retailer's
798 permits, native wine retailer's permits and temporary retailer's
799 permits who have not previously purchased the brand of that
800 manufacturer from the commission. For each holder of the
801 designated permits, the manufacturer may furnish not more than
802 five hundred (500) milliliters of any brand of alcoholic beverage
803 and not more than three (3) liters of any brand of wine.

804 (8) The commission may promulgate rules disallowing open
805 product sampling of alcoholic beverages or wines by the holders of
806 package retailer's permits and permitting open product sampling of
807 alcoholic beverages by the holders of on-premises retailer's
808 permits. Permitted sample products shall be plainly identified
809 "sample" and the actual sampling must occur in the presence of the
810 manufacturer's representatives during the legal operating hours of
811 on-premises retailers.

812 (9) The commission may promulgate rules and regulations that
813 authorize the holder of a research permit to import and purchase
814 limited amounts of alcoholic beverages from importers, wineries
815 and distillers of alcoholic beverages or from the commission. The
816 commission shall develop and provide forms to be completed by the
817 research permittee verifying each transaction. The completed
818 forms shall be forwarded to the commission within a period of time
819 prescribed by the commission. The records and inventory of
820 alcoholic beverages shall be open to inspection at any time by the
821 Director of the Alcoholic Beverage Control Division or any duly
822 authorized agent.

823 SECTION 10. Section 67-1-45, Mississippi Code of 1972, is

824 amended as follow:

825 67-1-45. No manufacturer, rectifier, or distiller of
826 intoxicating liquor shall sell or attempt to sell any such
827 intoxicating liquor, except malt liquor and wine or vinous liquor,
828 within the State of Mississippi, except to the commission, or to
829 the holder of a research permit as provided in Section 67-1-41.
830 However, a producer of native wine may sell native wines to the
831 commission, authorized retail distributor, or directly to
832 consumers. No manufacturer or other person shall sell or attempt
833 to sell any wine or vinous liquor within the State of Mississippi
834 except to the holder of a wine distributor's permit as provided in
835 Section 67-1-41.

836 Any violation of this section by any manufacturer, rectifier,
837 or distiller shall be punished by a fine of not less than Five
838 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
839 (\$2,000.00), to which may be added imprisonment in the county jail
840 not to exceed six (6) months.

841 SECTION 11. Section 67-1-51, Mississippi Code of 1972, is
842 amended as follows:

843 67-1-51. (1) Permits which may be issued by the commission
844 shall be as follows:

845 (a) **Manufacturer's permit.** A manufacturer's permit
846 shall permit the manufacture, importation in bulk, bottling and
847 storage of alcoholic liquor and its distribution and sale to
848 manufacturers holding permits under this chapter in this state and
849 to persons outside the state who are authorized by law to purchase
850 the same, and to sell exclusively to the commission.

851 **Manufacturer's permits shall be of the following classes:**

852 Class 1. Distiller's and/or rectifier's permit, which shall
853 authorize the holder thereof to operate a distillery for the
854 production of distilled spirits by distillation or redistillation
855 and/or to operate a rectifying plant for the purifying, refining,
856 mixing, blending, flavoring or reducing in proof of distilled
857 spirits and alcohol.

858 Class 2. Wine manufacturer's permit, which shall authorize
859 the holder thereof to manufacture, import in bulk, bottle and
860 store wine or vinous liquor.

861 Class 3. Native wine producer's permit, which shall
862 authorize the holder thereof to produce, bottle, store and sell
863 native wines.

864 (b) **Package retailer's permit.** Except as otherwise
865 provided in this paragraph, a package retailer's permit shall
866 authorize the holder thereof to operate a store exclusively for
867 the sale at retail in original sealed and unopened packages of
868 alcoholic beverages, including native wines, not to be consumed on
869 the premises where sold. Alcoholic beverages shall not be sold by
870 any retailer in any package or container containing less than
871 fifty (50) milliliters by liquid measure. In addition to the sale
872 at retail of packages of alcoholic beverages, the holder of a
873 package retailer's permit is authorized to sell at retail
874 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
875 other beverages commonly used to mix with alcoholic beverages.
876 Nonalcoholic beverages sold by the holder of a package retailer's
877 permit shall not be consumed on the premises where sold.

878 (c) **On-premises retailer's permit.** An on-premises
879 retailer's permit shall authorize the sale of alcoholic beverages,
880 including native wines, for consumption on the licensed premises
881 only. Such a permit shall issue only to qualified hotels,
882 restaurants and clubs, and to common carriers with adequate
883 facilities for serving passengers. In resort areas, whether
884 inside or outside of a municipality, the commission may, in its
885 discretion, issue on-premises retailer's permits to such
886 establishments as it deems proper. An on-premises retailer's
887 permit when issued to a common carrier shall authorize the sale
888 and serving of alcoholic beverages aboard any licensed vehicle
889 while moving through any county of the state; however, the sale of
890 such alcoholic beverages shall not be permitted while such vehicle
891 is stopped in a county that has not legalized such sales.

892 (d) **Solicitor's permit.** A solicitor's permit shall
893 authorize the holder thereof to act as salesman for a manufacturer
894 or wholesaler holding a proper permit, to solicit on behalf of his
895 employer orders for alcoholic beverages, and to otherwise promote
896 his employer's products in a legitimate manner. Such a permit
897 shall authorize the representation of and employment by one (1)
898 principal only. However, the permittee may also, in the
899 discretion of the commission, be issued additional permits to
900 represent other principals. No such permittee shall buy or sell
901 alcoholic beverages for his own account, and no such beverage
902 shall be brought into this state in pursuance of the exercise of
903 such permit otherwise than through a permit issued to a wholesaler
904 or manufacturer in the state.

905 (e) **Native wine retailer's permit.** A native wine
906 retailer's permit shall be issued only to a holder of a Class 3
907 manufacturer's permit, and shall authorize the holder thereof to
908 make retail sales of native wines to consumers for on-premises
909 consumption or to consumers in originally sealed and unopened
910 containers at an establishment located on the premises of or in
911 the immediate vicinity of a native winery.

912 (f) **Temporary retailer's permit.** A temporary
913 retailer's permit shall permit the purchase and resale of
914 alcoholic beverages, including native wines, during legal hours on
915 the premises described in the temporary permit only.

916 **Temporary retailer's permits shall be of the following**
917 **classes:**

918 Class 1. A temporary one-day permit may be issued to bona
919 fide nonprofit civic or charitable organizations authorizing the
920 sale of alcoholic beverages, including native wine, for
921 consumption on the premises described in the temporary permit
922 only. Class 1 permits may be issued only to applicants
923 demonstrating to the commission, by affidavit submitted ten (10)
924 days prior to the proposed date or such other time as the
925 commission may determine, that they meet the qualifications of

926 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
927 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
928 obtain all alcoholic beverages from package retailers located in
929 the county in which the temporary permit is issued. Alcoholic
930 beverages remaining in stock upon expiration of the temporary
931 permit may be returned by the permittee to the package retailer
932 for a refund of the purchase price upon consent of the package
933 retailer or may be kept by the permittee exclusively for personal
934 use and consumption, subject to all laws pertaining to the illegal
935 sale and possession of alcoholic beverages. The commission,
936 following review of the affidavit and the requirements of the
937 applicable statutes and regulations, may issue the permit.

938 Class 2. A temporary permit, not to exceed seventy (70)
939 days, may be issued to prospective permittees seeking to transfer
940 a permit authorized in either paragraph (b) or (c) of this
941 section. A Class 2 permit may be issued only to applicants
942 demonstrating to the commission, by affidavit, that they meet the
943 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
944 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
945 commission, following a preliminary review of the affidavit and
946 the requirements of the applicable statutes and regulations, may
947 issue the permit.

948 Class 2 temporary permittees must purchase their alcoholic
949 beverages directly from the commission or, with approval of the
950 commission, purchase the remaining stock of the previous
951 permittee.

952 If the proposed applicant of a Class 1 or Class 2 temporary
953 permit falsifies information contained in the application or
954 affidavit, the applicant shall never again be eligible for a
955 retail alcohol beverage permit and shall be subject to prosecution
956 for perjury.

957 (g) **Caterer's permit.** A caterer's permit shall permit
958 the purchase of alcoholic beverages by a person engaging in
959 business as a caterer and the resale of alcoholic beverages by

960 such person in conjunction with such catering business. No person
961 shall qualify as a caterer unless forty percent (40%) or more of
962 the revenue derived from such catering business shall be from the
963 serving of prepared food and not from the sale of alcoholic
964 beverages and unless such person has obtained a permit for such
965 business from the Department of Health. A caterer's permit shall
966 not authorize the sale of alcoholic beverages on the premises of
967 the person engaging in business as a caterer; however, the holder
968 of an on-premises retailer's permit may hold a caterer's permit.
969 All sales of alcoholic beverages by holders of a caterer's permit
970 shall be made at the location being catered by the caterer, and
971 such sales may be made only for consumption at the catered
972 location. Such sales shall be made pursuant to any other
973 conditions and restrictions which apply to sales made by
974 on-premises retail permittees. The holder of a caterer's permit
975 or his employees shall remain at the catered location as long as
976 alcoholic beverages are being sold pursuant to the permit issued
977 under this paragraph (g), and the permittee and employees at such
978 location shall each have personal identification cards issued by
979 the Alcoholic Beverage Control Division of the commission. No
980 unsold alcoholic beverages may be left at the catered location by
981 the permittee upon the conclusion of his business at that
982 location. Appropriate law enforcement officers and Alcoholic
983 Beverage Control Division personnel may enter a catered location
984 on private property in order to enforce laws governing the sale or
985 serving of alcoholic beverages.

986 (h) **Research Permit.** A research permit shall authorize
987 the holder thereof to operate a research facility for the
988 professional research of alcoholic beverages. Such permit shall
989 authorize the holder of the permit to import and purchase limited
990 amounts of alcoholic beverages from the commission or from
991 importers, wineries and distillers of alcoholic beverages for
992 professional research.

993 (i) **Alcohol processing permit.** An alcohol processing

994 permit shall authorize the holder thereof to purchase, transport
995 and possess alcoholic beverages for the exclusive use in cooking,
996 processing or manufacturing products which contain alcoholic
997 beverages as an integral ingredient. An alcohol processing permit
998 shall not authorize the sale of alcoholic beverages on the
999 premises of the person engaging in the business of cooking,
1000 processing or manufacturing products which contain alcoholic
1001 beverages. The amounts of alcoholic beverages allowed under an
1002 alcohol processing permit shall be set by the commission.

1003 (j) Wine distributor's permit. A wine distributor's
1004 permit shall authorize the holder thereof to purchase for resale,
1005 to store and to distribute to authorized permittees, wine or
1006 vinous liquor. Such permit shall entitle the holder thereof to
1007 purchase wine or vinous liquor from any manufacturer or importer
1008 for the purpose of resale in this state to permittees that are
1009 authorized to sell wine or vinous liquor at retail. The holder of
1010 a wine distributor's permit may transport wine or vinous liquor
1011 into the State of Mississippi and store such wine or vinous liquor
1012 in a private bonded warehouse of such permittee's choice for sale
1013 to permittees who are authorized to sell wine or vinous liquor at
1014 retail. The holder of a wine distributor's permit may solicit
1015 orders for wine or vinous liquor from any permittee that is
1016 authorized to sell wine or vinous liquor at retail. Records of
1017 such orders shall be kept and maintained for a period of three (3)
1018 years after the order is taken and shall be subject to inspection
1019 by the division at any time without prior notice. The holder of a
1020 wine distributor's permit shall deliver wine or vinous liquor to
1021 an authorized permittee within three (3) days of receipt of the
1022 order.

1023 (2) Retail permittees may hold more than one (1) retail
1024 permit, at the discretion of the commission.

1025 (3) Except as otherwise provided in this subsection, no
1026 authority shall be granted to any person to manufacture, sell or
1027 store for sale any intoxicating liquor as specified in this

1028 chapter within four hundred (400) feet of any church, school,
1029 kindergarten or funeral home. However, within an area zoned
1030 commercial or business, such minimum distance shall be not less
1031 than one hundred (100) feet.

1032 A church or funeral home may waive the distance restrictions
1033 imposed in this subsection in favor of allowing issuance by the
1034 commission of a permit, pursuant to subsection (1) of this
1035 section, to authorize activity relating to the manufacturing, sale
1036 or storage of alcoholic beverages which would otherwise be
1037 prohibited under the minimum distance criterion. Such waiver
1038 shall be in written form from the owner, the governing body, or
1039 the appropriate officer of the church or funeral home having the
1040 authority to execute such a waiver, and the waiver shall be filed
1041 with and verified by the commission before becoming effective.

1042 The distance restrictions imposed in this subsection shall
1043 not apply to the sale or storage of alcoholic beverages at a bed
1044 and breakfast inn listed in the National Register of Historic
1045 Places.

1046 SECTION 12. Section 67-1-77, Mississippi Code of 1972, is
1047 amended as follows:

1048 67-1-77. (1) It shall be unlawful for the holder of a
1049 manufacturer's or wholesaler's permit, or anyone connected with
1050 the business of such holder, or for any other distiller, wine
1051 manufacturer, wine distributor, brewer, rectifier, blender, or
1052 bottler, to have any financial interest in any premises upon which
1053 any alcoholic beverage is sold at retail by any permittee, or in
1054 the business conducted by such permittee; provided, however, the
1055 holder of a manufacturer's or wholesaler's permit may contract for
1056 the service of a representative in the area of governmental
1057 affairs on a part-time basis with a holder of an on-premises
1058 permit.

1059 (2) It shall also be unlawful for any such person, or anyone
1060 connected with his, its, or their business to lend any money or
1061 make any gift or offer any gratuity, to any retail permittee,

1062 except as authorized by regulations of the commission, to the
1063 holder of any retail permit issued under the provisions of this
1064 chapter. Except as above provided, no retail permittee shall
1065 accept, receive, or make use of any money or gift furnished by any
1066 such person, or become indebted to such person except for the
1067 purchase of alcoholic beverages.

1068 (3) The commission shall not prohibit the furnishing of
1069 advertising specialties, printed materials, or other things having
1070 nominal value to a retail permittee. This section shall not be
1071 construed to prohibit the possession by any person of advertising
1072 specialties, printed materials, or other things having nominal
1073 value furnished by a retail permittee.

1074 (4) Any person violating the provisions of this section
1075 shall, upon conviction, be punished by a fine of not more than
1076 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1077 than two (2) years, or by both such fine and imprisonment, in the
1078 discretion of the court.

1079 SECTION 13. This act shall take effect and be in force from
1080 and after July 1, 1999.