

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2261

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE HOLDER OF A PACKAGE RETAILER'S PERMIT TO SELL
3 MARGARITA MIX, MARGARITA SALT AND TOBACCO PRODUCTS; AND FOR
4 RELATED PURPOSES.

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

6 SECTION 1. Section 67-1-51, Mississippi Code of 1972, is
7 amended as follows:

8 67-1-51. (1) Permits which may be issued by the commission
9 shall be as follows:

10 (a) **Manufacturer's permit.** A manufacturer's permit
11 shall permit the manufacture, importation in bulk, bottling and
12 storage of alcoholic liquor and its distribution and sale to
13 manufacturers holding permits under this chapter in this state and
14 to persons outside the state who are authorized by law to purchase
15 the same, and to sell exclusively to the commission.

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

17 Class 1. Distiller's and/or rectifier's permit, which shall
18 authorize the holder thereof to operate a distillery for the
19 production of distilled spirits by distillation or redistillation
20 and/or to operate a rectifying plant for the purifying, refining,
21 mixing, blending, flavoring or reducing in proof of distilled
22 spirits and alcohol.

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

26 Class 3. Native wine producer's permit, which shall
27 authorize the holder thereof to produce, bottle, store and sell

28 native wines.

29 (b) **Package retailer's permit.** Except as otherwise
30 provided in this paragraph, a package retailer's permit shall
31 authorize the holder thereof to operate a store exclusively for
32 the sale at retail in original sealed and unopened packages of
33 alcoholic beverages, including native wines, not to be consumed on
34 the premises where sold. Alcoholic beverages shall not be sold by
35 any retailer in any package or container containing less than
36 fifty (50) milliliters by liquid measure. In addition to the sale
37 at retail of packages of alcoholic beverages, the holder of a
38 package retailer's permit is authorized to sell at retail
39 corkscrews, wine glasses, Margarita mix, Margarita salt, tobacco
40 products, soft drinks, ice, juices, mixers and other beverages
41 commonly used to mix with alcoholic beverages. Nonalcoholic
42 beverages sold by the holder of a package retailer's permit shall
43 not be consumed on the premises where sold.

44 (c) **On-premises retailer's permit.** An on-premises
45 retailer's permit shall authorize the sale of alcoholic beverages,
46 including native wines, for consumption on the licensed premises
47 only. Such a permit shall issue only to qualified hotels,
48 restaurants and clubs, and to common carriers with adequate
49 facilities for serving passengers. In resort areas, whether
50 inside or outside of a municipality, the commission may, in its
51 discretion, issue on-premises retailer's permits to such
52 establishments as it deems proper. An on-premises retailer's
53 permit when issued to a common carrier shall authorize the sale
54 and serving of alcoholic beverages aboard any licensed vehicle
55 while moving through any county of the state; however, the sale of
56 such alcoholic beverages shall not be permitted while such vehicle
57 is stopped in a county that has not legalized such sales.

58 (d) **Solicitor's permit.** A solicitor's permit shall
59 authorize the holder thereof to act as salesman for a manufacturer
60 or wholesaler holding a proper permit, to solicit on behalf of his

61 employer orders for alcoholic beverages, and to otherwise promote
62 his employer's products in a legitimate manner. Such a permit
63 shall authorize the representation of and employment by one (1)
64 principal only. However, the permittee may also, in the
65 discretion of the commission, be issued additional permits to
66 represent other principals. No such permittee shall buy or sell
67 alcoholic beverages for his own account, and no such beverage
68 shall be brought into this state in pursuance of the exercise of
69 such permit otherwise than through a permit issued to a wholesaler
70 or manufacturer in the state.

71 (e) **Native wine retailer's permit.** A native wine
72 retailer's permit shall be issued only to a holder of a Class 3
73 manufacturer's permit, and shall authorize the holder thereof to
74 make retail sales of native wines to consumers for on-premises
75 consumption or to consumers in originally sealed and unopened
76 containers at an establishment located on the premises of or in
77 the immediate vicinity of a native winery.

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

82 **Temporary retailer's permits shall be of the following**
83 **classes:**

84 Class 1. A temporary one-day permit may be issued to bona
85 fide nonprofit civic or charitable organizations authorizing the
86 sale of alcoholic beverages, including native wine, for
87 consumption on the premises described in the temporary permit
88 only. Class 1 permits may be issued only to applicants
89 demonstrating to the commission, by affidavit submitted ten (10)
90 days prior to the proposed date or such other time as the
91 commission may determine, that they meet the qualifications of
92 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
93 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall

94 obtain all alcoholic beverages from package retailers located in
95 the county in which the temporary permit is issued. Alcoholic
96 beverages remaining in stock upon expiration of the temporary
97 permit may be returned by the permittee to the package retailer
98 for a refund of the purchase price upon consent of the package
99 retailer or may be kept by the permittee exclusively for personal
100 use and consumption, subject to all laws pertaining to the illegal
101 sale and possession of alcoholic beverages. The commission,
102 following review of the affidavit and the requirements of the
103 applicable statutes and regulations, may issue the permit.

104 Class 2. A temporary permit, not to exceed seventy (70)
105 days, may be issued to prospective permittees seeking to transfer
106 a permit authorized in either paragraph (b) or (c) of this
107 section. A Class 2 permit may be issued only to applicants
108 demonstrating to the commission, by affidavit, that they meet the
109 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
110 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
111 commission, following a preliminary review of the affidavit and
112 the requirements of the applicable statutes and regulations, may
113 issue the permit.

114 Class 2 temporary permittees must purchase their alcoholic
115 beverages directly from the commission or, with approval of the
116 commission, purchase the remaining stock of the previous
117 permittee.

118 If the proposed applicant of a Class 1 or Class 2 temporary
119 permit falsifies information contained in the application or
120 affidavit, the applicant shall never again be eligible for a
121 retail alcohol beverage permit and shall be subject to prosecution
122 for perjury.

123 (g) **Caterer's permit.** A caterer's permit shall permit
124 the purchase of alcoholic beverages by a person engaging in
125 business as a caterer and the resale of alcoholic beverages by
126 such person in conjunction with such catering business. No person

127 shall qualify as a caterer unless forty percent (40%) or more of
128 the revenue derived from such catering business shall be from the
129 serving of prepared food and not from the sale of alcoholic
130 beverages and unless such person has obtained a permit for such
131 business from the Department of Health. A caterer's permit shall
132 not authorize the sale of alcoholic beverages on the premises of
133 the person engaging in business as a caterer; however, the holder
134 of an on-premises retailer's permit may hold a caterer's permit.
135 All sales of alcoholic beverages by holders of a caterer's permit
136 shall be made at the location being catered by the caterer, and
137 such sales may be made only for consumption at the catered
138 location. Such sales shall be made pursuant to any other
139 conditions and restrictions which apply to sales made by
140 on-premises retail permittees. The holder of a caterer's permit
141 or his employees shall remain at the catered location as long as
142 alcoholic beverages are being sold pursuant to the permit issued
143 under this paragraph (g), and the permittee and employees at such
144 location shall each have personal identification cards issued by
145 the Alcoholic Beverage Control Division of the commission. No
146 unsold alcoholic beverages may be left at the catered location by
147 the permittee upon the conclusion of his business at that
148 location. Appropriate law enforcement officers and Alcoholic
149 Beverage Control Division personnel may enter a catered location
150 on private property in order to enforce laws governing the sale or
151 serving of alcoholic beverages.

152 (h) **Research Permit.** A research permit shall authorize
153 the holder thereof to operate a research facility for the
154 professional research of alcoholic beverages. Such permit shall
155 authorize the holder of the permit to import and purchase limited
156 amounts of alcoholic beverages from the commission or from
157 importers, wineries and distillers of alcoholic beverages for
158 professional research.

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

160 permit shall authorize the holder thereof to purchase, transport
161 and possess alcoholic beverages for the exclusive use in cooking,
162 processing or manufacturing products which contain alcoholic
163 beverages as an integral ingredient. An alcohol processing permit
164 shall not authorize the sale of alcoholic beverages on the
165 premises of the person engaging in the business of cooking,
166 processing or manufacturing products which contain alcoholic
167 beverages. The amounts of alcoholic beverages allowed under an
168 alcohol processing permit shall be set by the commission.

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

171 (3) Except as otherwise provided in this subsection, no
172 authority shall be granted to any person to manufacture, sell or
173 store for sale any intoxicating liquor as specified in this
174 chapter within four hundred (400) feet of any church, school,
175 kindergarten or funeral home. However, within an area zoned
176 commercial or business, such minimum distance shall be not less
177 than one hundred (100) feet.

178 A church or funeral home may waive the distance restrictions
179 imposed in this subsection in favor of allowing issuance by the
180 commission of a permit, pursuant to subsection (1) of this
181 section, to authorize activity relating to the manufacturing, sale
182 or storage of alcoholic beverages which would otherwise be
183 prohibited under the minimum distance criterion. Such waiver
184 shall be in written form from the owner, the governing body, or
185 the appropriate officer of the church or funeral home having the
186 authority to execute such a waiver, and the waiver shall be filed
187 with and verified by the commission before becoming effective.

188 The distance restrictions imposed in this subsection shall
189 not apply to the sale or storage of alcoholic beverages at a bed
190 and breakfast inn listed in the National Register of Historic
191 Places.

192 SECTION 2. This act shall take effect and be in force from

193 and after July 1, 1999.