

By: Moak

To: Ways and Means

HOUSE BILL NO. 298

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 LICENSE TAX FOR A WINE DISTRIBUTOR'S PERMIT; TO PROVIDE  
6 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 SECTION 1. Section 27-71-5, Mississippi Code of 1972, is  
32 amended as follows:

33 27-71-5. (1) Upon each person approved for a permit under  
34 the provisions of the Alcoholic Beverage Control Law and

35 amendments thereto, there is levied and imposed for each location  
36 for the privilege of engaging and continuing in this state in the  
37 business authorized by such permit, an annual privilege license  
38 tax in the amount provided in the following schedule:

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

41 (b) Manufacturer's permit, Class 2, wine  
42 manufacturer..... \$1,800.00

43 (c) Manufacturer's permit, Class 3, native  
44 wine manufacturer per 10,000 gallons or part thereof  
45 produced..... \$ 10.00

46 (d) Native wine retailer's permit..... \$ 50.00

47 (e) Package retailer's permit, each..... \$ 900.00

48 (f) On-premises retailer's permit, except  
49 for clubs and common carriers, each..... \$ 450.00

50 On purchases exceeding \$5,000.00 and for each  
51 additional \$5,000.00, or fraction thereof..... \$ 225.00

52 (g) On-premises retailer's permit for wine  
53 of more than four percent (4%) alcohol by volume, but  
54 not more than twenty-one percent (21%) alcohol by  
55 volume (each)..... \$ 225.00

56 On purchases exceeding \$5,000.00 and for each  
57 additional \$5,000.00, or fraction thereof..... \$ 225.00

58 (h) On-premises retailer's permit for clubs.. \$ 225.00

59 On purchases exceeding \$5,000.00 and for each  
60 additional \$5,000.00, or fraction thereof..... \$ 225.00

61 (i) On-premises retailer's permit for common  
62 carriers, per car, plane, or other vehicle..... \$ 120.00

63 (j) Solicitor's permit, regardless of any other  
64 provision of law, solicitor's permits shall be issued  
65 only in the discretion of the commission..... \$ 100.00

66	(k)	Filing fee for each application except	
67		for an employee identification card.....	\$ 25.00
68	(l)	Temporary permit, Class 1, each.....	\$ 10.00
69	(m)	Temporary permit, Class 2, each.....	\$ 50.00
70		On-premises purchases exceeding \$5,000.00 and	
71		for each additional \$5,000.00, or fraction thereof.....	\$ 225.00
72	(n) (i)	Caterer's permit.....	\$ 600.00
73		On purchases exceeding \$5,000.00 and for each	
74		additional \$5,000.00, or fraction thereof.....	\$ 250.00
75	(ii)	Caterer's permit for holders of	
76		on-premises retailer's permit.....	\$ 150.00
77		On purchases exceeding \$5,000.00 and for each	
78		additional \$5,000.00, or fraction thereof.....	\$ 250.00
79	(o)	Research permit.....	\$ 100.00
80	(p)	Filing fee for each application for an employee	
81		identification card.....	\$ 5.00
82	(q)	<u>Wine distributor's permit.....</u>	<u>\$1,800.00</u>

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

93 All privilege taxes herein imposed shall be paid in advance

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

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

104 (2) There is imposed and shall be collected from each  
105 permittee, except a common carrier, solicitor, holder of an  
106 employee identification card or a temporary permittee, by the  
107 commission, an additional license tax equal to the amounts imposed  
108 under subsection (1) of this section for the privilege of doing  
109 business within any municipality or county in which the licensee  
110 is located. If the licensee is located within a municipality, the  
111 commission shall pay the amount of additional license tax to the  
112 municipality, and if outside a municipality the commission shall  
113 pay the additional license tax to the county in which the licensee  
114 is located. Payments by the commission to the respective local  
115 government subdivisions shall be made once each month for any  
116 collections during the preceding month.

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

122 within a twelve-month period.

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

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

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

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

145 27-71-7. (1) There is hereby levied and assessed an excise  
146 tax upon each case of alcoholic beverages sold by the commission  
147 or the holder of a wine distributor's permit to be collected from  
148 each retail licensee at the time of sale in accordance with the  
149 following schedule:

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

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

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

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

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

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

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

200 27-71-11. The commission shall from time to time by  
201 resolution request the State Bond Commission to provide sufficient  
202 funds required to maintain an adequate alcoholic beverage  
203 inventory. Said funds shall be provided under the provisions of  
204 Chapter 557, Laws of 1966.

205 The commission shall add to the cost of all alcoholic

206 beverages it distributes a markup of twenty-seven and one-half  
207 percent (27-1/2%), inclusive of the three percent (3%) markup  
208 imposed by Section 27-71-7(2).

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

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

213         27-71-15. Except as otherwise provided in Section 67-9-1 for  
214 the transportation of limited amounts of alcoholic beverages for  
215 the use of an alcohol processing permittee, if transportation  
216 requires passage through a county which has not authorized the  
217 sale of alcoholic beverages, such transportation shall be by a  
218 sealed vehicle. Such seal shall remain unbroken until the vehicle  
219 shall reach the place of business operated by the permittee. The  
220 operator of any vehicle transporting alcoholic beverages shall  
221 have in his possession an invoice issued by the commission or the  
222 holder of a wine distributor's permit at the time of the wholesale  
223 sale covering the merchandise transported by the vehicle. The  
224 commission is authorized to issue regulations controlling the  
225 transportation of alcoholic beverages.

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

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



234           27-71-21. Before any person shall engage in the business of  
235 manufacturing or retailing of alcoholic beverages or distributing  
236 wine, he may be required to enter into a bond payable to the State  
237 of Mississippi, conditioned that he will conduct said business  
238 strictly in accordance with the laws of the State of Mississippi,  
239 and that he will comply with the rules and regulations prescribed  
240 by the commission, and pay all taxes due the State of Mississippi.

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

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

255       As an alternative to entering into a bond as required by this  
256 section, any person who shall engage in the business of  
257 manufacturing or retailing alcoholic beverages or distributing  
258 wine may, subject to the same conditions of conduct required for  
259 bonds, deposit with the State Treasurer the equivalent amount of  
260 the bond required for that particular person in cash or  
261 securities. The only securities allowable for this purpose are

262 those which may legally be purchased by a bank or for trust funds,  
263 having a market value not less than that of the required bond.  
264 The commission shall file notice with the Treasurer for any  
265 violation of the conditions of the cash or security deposit.

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

268 67-1-5. For the purposes of this chapter and unless  
269 otherwise required by the context:

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

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

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

287 (d) \* \* \* "Wine" or "vinous liquor" means any product  
288 obtained from the alcoholic fermentation of the juice of sound,  
289 ripe grapes, fruits or berries and made in accordance with the

290 revenue laws of the United States.

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

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

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

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

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

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

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

315 (l) \* \* \* "Hotel" means an establishment within a  
316 municipality, or within a qualified resort area approved as such  
317 by the commission, where, in consideration of payment, food and

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

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

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

346                   (i) Organized or created under the laws of this  
347 state for a period of five (5) years prior to July 1, 1966;

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

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

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

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

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

368           The commission may, in its discretion, waive the five-year  
369 provision of this paragraph. In order to qualify under this  
370 paragraph, a club must file with the commission, at the time of  
371 its application for a license under this chapter, two (2) copies  
372 of a list of the names and residences of its members and similarly  
373 file, within ten (10) days after the election of any additional

374 member, his name and address. Each club applying for a license  
375 shall also file with the commission at the time of the application  
376 a copy of its articles of association, charter of incorporation,  
377 bylaws or other instruments governing the business and affairs  
378 thereof.

379           (o) \* \* \* "Qualified resort area" means any area or  
380 locality outside of the limits of incorporated municipalities in  
381 this state commonly known and accepted as a place which regularly  
382 and customarily attracts tourists, vacationists and other  
383 transients because of its historical, scenic or recreational  
384 facilities or attractions, or because of other attributes which  
385 regularly and customarily appeal to and attract tourists,  
386 vacationists and other transients in substantial numbers; however,  
387 no area or locality shall so qualify as a resort area until it has  
388 been duly and properly approved as such by the commission.

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

396           (ii) The term includes any state park which is  
397 declared a resort area by the commission; however, such  
398 declaration may only be initiated in a written request for resort  
399 area status made to the commission by the Executive Director of  
400 the Department of Wildlife, Fisheries and Parks, and no permit for  
401 the sale of any alcoholic beverage, as defined in this chapter,

402 except an on-premises retailer's permit, shall be issued for a  
403 hotel, restaurant or bed and breakfast inn in such park.

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

410 (p) \* \* \* "Native wine" means any product, produced in  
411 Mississippi for sale, having an alcohol content not to exceed  
412 twenty-one percent (21%) by weight and made in accordance with  
413 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 and for package  
778 retailers to purchase limited amounts of alcoholic beverages from  
779 other package retailers. The commission shall develop and provide  
780 forms to be completed by the on-premises retailers and the package  
781 retailers verifying the transaction. The completed forms shall be  
782 forwarded to the commission within a period of time prescribed by  
783 the commission.

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

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

793 (7) The commission may promulgate rules which authorize the

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

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

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

822 SECTION 10. Section 67-1-45, Mississippi Code of 1972, is  
823 amended as follows:

824 67-1-45. No manufacturer, rectifier, or distiller of  
825 intoxicating liquor shall sell or attempt to sell any such  
826 intoxicating liquor, except malt liquor and wine or vinous liquor,  
827 within the State of Mississippi, except to the commission, or to  
828 the holder of a research permit as provided in Section 67-1-41.  
829 However, a producer of native wine may sell native wines to the  
830 commission, authorized retail distributor, or directly to  
831 consumers. No manufacturer or other person shall sell or attempt  
832 to sell any wine or vinous liquor within the State of Mississippi  
833 except to the holder of a wine distributor's permit as provided in  
834 Section 67-1-41.

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

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

842 67-1-51. (1) Permits which may be issued by the commission  
843 shall be as follows:

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

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

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

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

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

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

877                   (c) **On-premises retailer's permit.** An on-premises

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

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

904 (e) **Native wine retailer's permit.** A native wine  
905 retailer's permit shall be issued only to a holder of a Class 3



906 manufacturer's permit, and shall authorize the holder thereof to  
907 make retail sales of native wines to consumers for on-premises  
908 consumption or to consumers in originally sealed and unopened  
909 containers at an establishment located on the premises of or in  
910 the immediate vicinity of a native winery.

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

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

917 Class 1. A temporary one-day permit may be issued to bona  
918 fide nonprofit civic or charitable organizations authorizing the  
919 sale of alcoholic beverages, including native wine, for  
920 consumption on the premises described in the temporary permit  
921 only. Class 1 permits may be issued only to applicants  
922 demonstrating to the commission, by affidavit submitted ten (10)  
923 days prior to the proposed date or such other time as the  
924 commission may determine, that they meet the qualifications of  
925 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57  
926 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
927 obtain all alcoholic beverages from package retailers located in  
928 the county in which the temporary permit is issued. Alcoholic  
929 beverages remaining in stock upon expiration of the temporary  
930 permit may be returned by the permittee to the package retailer  
931 for a refund of the purchase price upon consent of the package  
932 retailer or may be kept by the permittee exclusively for personal  
933 use and consumption, subject to all laws pertaining to the illegal

934 sale and possession of alcoholic beverages. The commission,  
935 following review of the affidavit and the requirements of the  
936 applicable statutes and regulations, may issue the permit.

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

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

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

956 (g) **Caterer's permit.** A caterer's permit shall permit  
957 the purchase of alcoholic beverages by a person engaging in  
958 business as a caterer and the resale of alcoholic beverages by  
959 such person in conjunction with such catering business. No person  
960 shall qualify as a caterer unless forty percent (40%) or more of  
961 the revenue derived from such catering business shall be from the

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

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

990 importers, wineries and distillers of alcoholic beverages for  
991 professional research.

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

1002           (j) Wine distributor's permit. A wine distributor's  
1003 permit shall authorize the holder thereof to purchase for resale,  
1004 to store and to distribute to authorized permittees, wine or  
1005 vinous liquor. Such permit shall entitle the holder thereof to  
1006 purchase wine or vinous liquor from any manufacturer or importer  
1007 for the purpose of resale in this state to permittees that are  
1008 authorized to sell wine or vinous liquor at retail. The holder of  
1009 a wine distributor's permit may transport wine or vinous liquor  
1010 into the State of Mississippi and store such wine or vinous liquor  
1011 in a private bonded warehouse of such permittee's choice for sale  
1012 to permittees who are authorized to sell wine or vinous liquor at  
1013 retail. The holder of a wine distributor's permit may solicit  
1014 orders for wine or vinous liquor from any permittee that is  
1015 authorized to sell wine or vinous liquor at retail. Records of  
1016 such orders shall be kept and maintained for a period of three (3)  
1017 years after the order is taken and shall be subject to inspection

1018 by the division at any time without prior notice. The holder of a  
1019 wine distributor's permit shall deliver wine or vinous liquor to  
1020 an authorized permittee within three (3) days of receipt of the  
1021 order.

1022 (2) Retail permittees may hold more than one (1) retail  
1023 permit, at the discretion of the commission.

1024 (3) Except as otherwise provided in this subsection, no  
1025 authority shall be granted to any person to manufacture, sell or  
1026 store for sale any intoxicating liquor as specified in this  
1027 chapter within four hundred (400) feet of any church, school,  
1028 kindergarten or funeral home. However, within an area zoned  
1029 commercial or business, such minimum distance shall be not less  
1030 than one hundred (100) feet.

1031 A church or funeral home may waive the distance restrictions  
1032 imposed in this subsection in favor of allowing issuance by the  
1033 commission of a permit, pursuant to subsection (1) of this  
1034 section, to authorize activity relating to the manufacturing, sale  
1035 or storage of alcoholic beverages which would otherwise be  
1036 prohibited under the minimum distance criterion. Such waiver  
1037 shall be in written form from the owner, the governing body, or  
1038 the appropriate officer of the church or funeral home having the  
1039 authority to execute such a waiver, and the waiver shall be filed  
1040 with and verified by the commission before becoming effective.

1041 The distance restrictions imposed in this subsection shall  
1042 not apply to the sale or storage of alcoholic beverages at a bed  
1043 and breakfast inn listed in the National Register of Historic  
1044 Places.

1045 SECTION 12. Section 67-1-77, Mississippi Code of 1972, is

1046 amended as follows:

1047           67-1-77. (1) It shall be unlawful for the holder of a  
1048 manufacturer's or wholesaler's permit, or anyone connected with  
1049 the business of such holder, or for any other distiller, wine  
1050 manufacturer, wine distributor, brewer, rectifier, blender, or  
1051 bottler, to have any financial interest in any premises upon which  
1052 any alcoholic beverage is sold at retail by any permittee, or in  
1053 the business conducted by such permittee; provided, however, the  
1054 holder of a manufacturer's or wholesaler's permit may contract for  
1055 the service of a representative in the area of governmental  
1056 affairs on a part-time basis with a holder of an on-premises  
1057 permit.

1058           (2) It shall also be unlawful for any such person, or anyone  
1059 connected with his, its, or their business to lend any money or  
1060 make any gift or offer any gratuity, to any retail permittee,  
1061 except as authorized by regulations of the commission, to the  
1062 holder of any retail permit issued under the provisions of this  
1063 chapter. Except as above provided, no retail permittee shall  
1064 accept, receive, or make use of any money or gift furnished by any  
1065 such person, or become indebted to such person except for the  
1066 purchase of alcoholic beverages.

1067           (3) The commission shall not prohibit the furnishing of  
1068 advertising specialties, printed materials, or other things having  
1069 nominal value to a retail permittee. This section shall not be  
1070 construed to prohibit the possession by any person of advertising  
1071 specialties, printed materials, or other things having nominal  
1072 value furnished by a retail permittee.

1073           (4) Any person violating the provisions of this section

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

1078 SECTION 13. This act shall take effect and be in force from  
1079 and after July 1, 2000.