

By: Fleming

To: Ways and Means

## HOUSE BILL NO. 1392

1 AN ACT TO AUTHORIZE WHOLESALERS, RETAILERS OR PRODUCERS OF  
2 ALCOHOLIC BEVERAGES DOMICILED OUTSIDE THE STATE OF MISSISSIPPI TO  
3 SHIP NOT MORE THAN 24 BOTTLES OF ALCOHOLIC BEVERAGES WITHIN A  
4 ONE-MONTH PERIOD DIRECTLY TO A HOUSEHOLD IN MISSISSIPPI IF THE  
5 ALCOHOLIC BEVERAGES ARE FOR PERSONAL USE; TO PROHIBIT THE SHIPMENT  
6 OF ALCOHOLIC BEVERAGES TO A PERSON WHO IS LESS THAN TWENTY-ONE  
7 YEARS OF AGE; TO PROHIBIT THE SHIPMENT OF ALCOHOLIC BEVERAGES TO A  
8 COUNTY THAT HAS NOT VOTED TO COME OUT FROM UNDER THE DRY LAW; TO  
9 PROHIBIT THE SHIPMENT OF ALCOHOLIC BEVERAGES THAT ARE SOLD AT  
10 RETAIL IN MISSISSIPPI AT THE TIME A SHIPMENT IS MADE; TO REQUIRE  
11 WHOLESALERS, RETAILERS OR PRODUCERS WHO SHIP ALCOHOLIC BEVERAGES  
12 PURSUANT TO THIS ACT TO REGISTER ANNUALLY WITH THE STATE TAX  
13 COMMISSION, PAY A FEE AND FILE A COPY OF THE INVOICE OF ANY  
14 SHIPMENT WITH THE STATE TAX COMMISSION; TO REQUIRE WHOLESALERS,  
15 RETAILERS AND PRODUCERS WHO SHIP ALCOHOLIC BEVERAGES PURSUANT TO  
16 THIS ACT TO FILE A QUARTERLY REPORT WITH THE STATE TAX COMMISSION  
17 AND TO PAY THE EXCISE AND SALES TAXES AND MARKUP IMPOSED BY THE  
18 STATE TAX COMMISSION ON ALCOHOLIC BEVERAGES SOLD IN THE STATE FOR  
19 THE TOTAL AMOUNT OF ALCOHOLIC BEVERAGES SHIPPED; TO PROVIDE  
20 PENALTIES FOR VIOLATIONS OF THIS ACT; TO AMEND SECTIONS 67-1-9 AND  
21 97-31-47, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
22 RELATED PURPOSES.

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

24 SECTION 1. (1) A wholesaler, retailer or producer of  
25 alcoholic beverages domiciled outside the State of Mississippi who  
26 holds a valid license from its state of residence, may ship not  
27 more than twenty-four (24) bottles of alcoholic beverages, which  
28 bottles may not exceed seven hundred fifty (750) milliliters each,  
29 each month directly to a household in Mississippi if the shipment  
30 is for personal use only; provided, however, that alcoholic  
31 beverages may not be shipped pursuant to this section:

32 (a) To a person who is less than twenty-one (21) years  
33 of age;

34 (b) To a county that has not voted to come out from  
35 under the dry law; or

36 (c) If the identical type and brand of alcoholic

37 beverage shipped is sold at retail in this state at the time the  
38 shipment is made.

39 (2) A wholesaler, retailer or producer of alcoholic  
40 beverages who desires to ship alcoholic beverages pursuant to  
41 subsection (1) of this section shall register with the State Tax  
42 Commission and pay a registration fee of One Hundred Dollars  
43 (\$100.00) and thereafter shall annually pay a fee of Fifty Dollars  
44 (\$50.00) before making any shipment pursuant to this section.  
45 Each shipment shall be accompanied by an invoice detailing the  
46 transaction.

47 (3) Wholesalers, retailers and producers of alcoholic  
48 beverage that ship directly to consumers in Mississippi pursuant  
49 to this section shall file a quarterly report with the State Tax  
50 Commission showing the total number of cases shipped into the  
51 state, the type of alcoholic beverages shipped and the name brands  
52 of the alcoholic beverages shipped. This report shall be  
53 accompanied by a payment for the excise tax, sales tax and markup  
54 imposed by the State Tax Commission on alcoholic beverages sold in  
55 the state for the total amount of alcoholic beverages shipped.

56 (4) It shall be unlawful for any wholesaler, retailer or  
57 producer of alcoholic beverages domiciled outside the State of  
58 Mississippi to:

59 (a) Ship more than twenty-four (24) bottles of  
60 alcoholic beverages, which bottles may not exceed seven hundred  
61 fifty (750) milliliters each, directly to any household in one (1)  
62 month;

63 (b) Ship to a person who is less than twenty-one (21)  
64 years of age;

65 (c) Ship to a county that has not voted to come out  
66 from under the dry law; or

67 (d) If the identical type and brand of alcoholic  
68 beverage shipped is sold at retail in this state at the time the  
69 shipment is made.

70 (5) A wholesaler, retailer or producer who violates the  
71 provisions of this section shall, in addition to any other penalty  
72 prescribed by law, be punished as follows:

73 (a) A first violation of this section shall be  
74 punishable by a penalty to be imposed by the State Tax Commission  
75 of not more than Five Thousand Dollars (\$5,000.00).

76 (b) A second violation of this section shall constitute  
77 a felony and upon conviction shall be punishable by a fine of not  
78 more than Twenty-five Thousand Dollars (\$25,000.00) or by  
79 imprisonment in the State Penitentiary not less than one (1) year,  
80 nor more than five (5) years, or both fine and imprisonment.

81 SECTION 2. Section 67-1-9, Mississippi Code of 1972, is  
82 amended as follows:

83 67-1-9. (1) (a) Except as otherwise provided in paragraph  
84 (b) of this subsection, it shall be unlawful for any person to  
85 manufacture, distill, brew, sell, possess, import into this state,  
86 export from the state, transport, distribute, warehouse, store,  
87 solicit, take order for, bottle, rectify, blend, treat, mix or  
88 process any alcoholic beverage except as authorized in this  
89 chapter. However, nothing contained herein shall prevent  
90 importers, alcoholic beverages and distillers of alcoholic  
91 beverages from storing such alcoholic beverages in private bonded  
92 warehouses located within the State of Mississippi for the  
93 ultimate use and benefit of the State Tax Commission as provided  
94 in Section 67-1-41. The commission is hereby authorized to  
95 promulgate rules and regulations for the establishment of such  
96 private bonded warehouses and for the control of alcoholic  
97 beverages stored in such warehouses. Additionally, nothing herein  
98 contained shall prevent any duly licensed practicing physician or  
99 dentist from possessing or using alcoholic liquor in the strict  
100 practice of his profession, or prevent any hospital or other  
101 institution caring for sick and diseased persons, from possessing  
102 and using alcoholic liquor for the treatment of bona fide patients

103 of such hospital or other institution. Any drugstore employing a  
104 licensed pharmacist may possess and use alcoholic liquors in the  
105 combination of prescriptions of duly licensed physicians. The  
106 possession and dispensation of alcoholic beverages by an  
107 authorized representative of any church for the purpose of  
108 conducting any bona fide rite or religious ceremony conducted by  
109 such church shall not be prohibited by this chapter.

110 (b) It shall not be unlawful for any person to import  
111 or transport alcoholic beverages pursuant to Section 1 of House  
112 Bill No. \_\_\_\_\_, 2000 Regular Session. It shall not be unlawful for  
113 any person to possess alcoholic beverages shipped pursuant to  
114 Section 1 of House Bill No. \_\_\_\_\_, 2000 Regular Session, in any  
115 county in this state that has voted to come out from under the dry  
116 law, provided that the person purchased the alcoholic beverages  
117 for his or her personal use and consumption only.

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

120 (a) By a fine of not less than One Hundred Dollars  
121 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by  
122 imprisonment in the county jail not less than one (1) week nor  
123 more than three (3) months, or both, for the first conviction  
124 under this section.

125 (b) By a fine of not less than One Hundred Dollars  
126 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
127 imprisonment in the county jail not less than sixty (60) days, nor  
128 more than six (6) months, or both fine and imprisonment, for the  
129 second conviction for violating this section.

130 (c) By a fine of not less than One Hundred Dollars  
131 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
132 imprisonment in the State Penitentiary not less than one (1) year,  
133 nor more than five (5) years, or both fine and imprisonment, for  
134 conviction the third time under this section for the violation  
135 thereof after having been twice convicted of its violation.

136 SECTION 3. Section 97-31-47, Mississippi Code of 1972, is  
137 amended as follows:

138 97-31-47. It shall be unlawful for any transportation  
139 company, or any agent, employee, or officer of such company, or  
140 any other person, or corporation to transport into or deliver in  
141 this state in any manner or by any means any spirituous, vinous,  
142 malt, or other intoxicating liquors or drinks, or for any such  
143 person, company, or corporation to transport any spirituous, malt,  
144 vinous, or intoxicating liquors or drinks from one (1) place  
145 within this state to another place within the state, or from one  
146 (1) point within this state to any point without the state, except  
147 in cases where this chapter, Section 67-1-9 or 67-9-1 authorizes  
148 the transportation.

149 SECTION 4. Section 1 of this act shall be codified as a  
150 separate code section in Chapter 1, Title 67, Mississippi Code of  
151 1972.

152 SECTION 5. This act shall take effect and be in force from  
153 and after July 1, 2000.