

By: Minor

To: Finance

SENATE BILL NO. 2440
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT PERSONS FROM OWNING ANY INTEREST IN MORE THAN ONE PACKAGE
3 RETAILER'S PERMIT; TO PROHIBIT THE SPOUSE OF SUCH PERSON, ANY
4 RELATIVE OF SUCH PERSON OR ANY PERSON LIVING IN THE SAME HOUSEHOLD
5 WITH SUCH PERSON FROM OWNING AN INTEREST IN ANY OTHER PACKAGE
6 RETAILER'S PERMIT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 67-1-51, Mississippi Code of 1972, is
9 amended as follows:[WAN1]

10 67-1-51. (1) Permits which may be issued by the commission
11 shall be as follows:

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

18 Manufacturer's permits shall be of the following classes:

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

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

28 Class 3. Native wine producer's permit, which shall

29 authorize the holder thereof to produce, bottle, store and sell
30 native wines.

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

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

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

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

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

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

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

84 Class 1. A temporary one-day permit may be issued to
85 bona fide nonprofit civic or charitable organizations authorizing
86 the 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. If the proposed applicant of a Class 1 or Class 2
118 temporary permit falsifies information contained in the
119 application or affidavit, the applicant shall never again be
120 eligible for a retail alcohol beverage permit and shall be subject
121 to prosecution for perjury.

122 (g) **Caterer's permit.** A caterer's permit shall permit
123 the purchase of alcoholic beverages by a person engaging in
124 business as a caterer and the resale of alcoholic beverages by
125 such person in conjunction with such catering business. No person
126 shall qualify as a caterer unless forty percent (40%) or more of
127 the revenue derived from such catering business shall be from the

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

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

158 (i) **Alcohol processing permit.** An alcohol processing
159 permit shall authorize the holder thereof to purchase, transport
160 and possess alcoholic beverages for the exclusive use in cooking,

161 processing or manufacturing products which contain alcoholic
162 beverages as an integral ingredient. An alcohol processing permit
163 shall not authorize the sale of alcoholic beverages on the
164 premises of the person engaging in the business of cooking,
165 processing or manufacturing products which contain alcoholic
166 beverages. The amounts of alcoholic beverages allowed under an
167 alcohol processing permit shall be set by the commission.

168 (2) Except as otherwise provided in subsection (4) of this
169 section, 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 (4) No person, either individually or as a member of a firm,
193 partnership or association, or as a stockholder, officer or

194 director in a corporation, shall own or control any interest in
195 more than one (1) package retailer's permit, nor shall such
196 person's spouse, if living in the same household of such person,
197 any relative of such person, if living in the same household of
198 such person, or any other person living in the same household with
199 such person own any interest in any other package retailer's
200 permit.

201 SECTION 2. This act shall take effect and be in force from
202 and after its passage.