To: Ways and Means

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001

By: Representative Banks

HOUSE BILL NO. 1104

AN ACT TO AMEND SECTIONS 27-71-5, 27-71-29 AND 27-71-337, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT TWENTY PERCENT OF THE FUNDS GENERATED BY TAXES AND FEES ON ALCOHOLIC BEVERAGES SHALL BE FORWARDED ON A PROPORTIONATE BASIS TO THE COUNTIES FROM WHICH SUCH FUNDS WERE GENERATED; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

On purchases exceeding $5,000.00 and for each additional

$5,000.00, or fraction thereof.......................... $225.00
(g) On-premises retailer's permit for wine of more than four percent (4%) alcohol by volume, but not more than twenty-one percent (21%) alcohol by volume (each).................... $225.00
On purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof............................ $225.00

(h) On-premises retailer's permit for clubs.... $225.00
On purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof............................ $225.00

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

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

(k) Filing fee for each application except for an employee identification card................................. $25.00

(l) Temporary permit, Class 1, each.................. $10.00

(m) Temporary permit, Class 2, each............... $50.00
On-premises purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof................. $225.00

(n) (i) Caterer's permit........................... $600.00
On purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof............................ $250.00
(ii) Caterer's permit for holders of on-premises retailer's permit.................................................. $150.00
On purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof............................ $250.00

(o) Research permit.................................. $100.00

(p) Filing fee for each application for an employee identification card................................. $5.00

In addition to the filing fee imposed by item (k) of this subsection, a fee to be determined by the State Tax Commission may be charged to defray costs incurred to process applications. Such additional fees shall be paid into the State Treasury to the
credit of a special fund account, which is hereby created, and expenditures therefrom shall be made only to defray the costs incurred by the State Tax Commission in processing alcoholic beverage applications. Eighty percent (80%) of any unencumbered balance remaining in the special fund account on June 30 of any fiscal year shall lapse into the State General Fund and the remaining twenty percent (20%) shall be forwarded on a proportionate basis to the counties where such fees were generated.

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

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

(2) There is imposed and shall be collected from each permittee, except a common carrier, solicitor, holder of an employee identification card or a temporary permittee, by the commission, an additional license tax equal to the amounts imposed under subsection (1) of this section for the privilege of doing business within any municipality or county in which the licensee is located. If the licensee is located within a municipality, the commission shall pay the amount of additional license tax to the municipality, and if outside a municipality the commission shall pay the additional license tax to the county in which the licensee is located. Payments by the commission to the respective local government subdivisions shall be made once each month for any collections during the preceding month.
(3) When an application for any permit, other than for renewal of a permit, has been rejected by the commission, such decision shall be final. Appeal may be made in the manner provided by Section 67-1-39. Another application from an applicant who has been denied a permit shall not be reconsidered within a twelve-month period.

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

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

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

SECTION 2. Section 27-71-29, Mississippi Code of 1972, is amended as follows:

27-71-29. All taxes levied by this article shall be paid to the State Tax Commission in cash or by personal check, cashier's check, bank exchange, post-office money order or express money order and eighty percent (80%) of such taxes shall be deposited by the commission in the State Treasury on the same day collected,
and the remaining twenty percent (20%) shall be forwarded on a proportionate basis to the counties where such taxes were generated. No remittances other than cash shall be a final discharge of liability for the tax herein imposed and levied unless and until it has been paid in cash to the State Tax Commission.

* * * The three percent (3%) levied under Section 27-71-7(2) and received by the commission under this article shall be paid into the special fund in the State Treasury designated as the "Alcoholism Treatment and Rehabilitation Fund" as required by law. Any funds derived from the sale of alcoholic beverages in excess of inventory requirements shall be paid not less often than annually into the General Fund.

SECTION 3. Section 27-71-337, Mississippi Code of 1972, is amended as follows:

27-71-337. All taxes levied by this article and required to be paid to the commissioner shall be payable to the commissioner in cash or by personal check, cashier's check, bank exchange, post-office money order or express money order and eighty percent (80%) of such taxes shall be deposited by the commissioner into the State Treasury on the same day collected, and the remaining twenty percent (20%) shall be forwarded on a proportionate basis to the counties from which such taxes were generated. * * * No remittances other than cash shall be a final discharge of liability for the tax herein imposed and levied unless and until it has been paid in cash to the commissioner.

SECTION 4. This act shall take effect and be in force from and after July 1, 2001.