

By: Senator(s) Dawkins

To: Finance

SENATE BILL NO. 2433

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE A PERMIT TO AUTHORIZE
3 THE HOLDER OF A SALON LICENSE TO PURCHASE WINE AND PROVIDE FREE
4 SAMPLES OF SUCH WINE TO PATRONS OF THE SALON ON THE PREMISES OF
5 SUCH SALON; TO AMEND SECTION 27-71-5, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE A PRIVILEGE TAX FOR A SALON WINE PERMIT; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 67-1-51, Mississippi Code of 1972, is
10 amended as follows:

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

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

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

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

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



29 **Class 3.** Native wine producer's permit, which shall
30 authorize the holder thereof to produce, bottle, store and sell
31 native wines.

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

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

60 (d) **Solicitor's permit.** A solicitor's permit shall
61 authorize the holder thereof to act as salesman for a manufacturer



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

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

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

84 Temporary retailer's permits shall be of the following
85 classes:

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



95 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
96 obtain all alcoholic beverages from package retailers located in
97 the county in which the temporary permit is issued. Alcoholic
98 beverages remaining in stock upon expiration of the temporary
99 permit may be returned by the permittee to the package retailer
100 for a refund of the purchase price upon consent of the package
101 retailer or may be kept by the permittee exclusively for personal
102 use and consumption, subject to all laws pertaining to the illegal
103 sale and possession of alcoholic beverages. The commission,
104 following review of the affidavit and the requirements of the
105 applicable statutes and regulations, may issue the permit.

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

116 Class 2 temporary permittees must purchase their
117 alcoholic beverages directly from the commission or, with approval
118 of the commission, purchase the remaining stock of the previous
119 permittee. If the proposed applicant of a Class 1 or Class 2
120 temporary permit falsifies information contained in the
121 application or affidavit, the applicant shall never again be
122 eligible for a retail alcohol beverage permit and shall be subject
123 to prosecution for perjury.

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



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

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



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

170 (j) **Salon wine permit.** A salon wine permit shall be
171 issued only to a holder of a salon license issued pursuant to
172 Section 73-7-17, and shall authorize the holder thereof to
173 purchase wine from a licensed wholesaler or distributor and
174 provide free samples of such wine to patrons of the salon on the
175 premises of the permittee's salon. The permittee shall be
176 required to comply with all other rules and regulations of the
177 commission.

178 (2) Except as otherwise provided in subsection (4) of this
179 section, retail permittees may hold more than one (1) retail
180 permit, at the discretion of the commission.

181 (3) Except as otherwise provided in this subsection, no
182 authority shall be granted to any person to manufacture, sell or
183 store for sale any intoxicating liquor as specified in this
184 chapter within four hundred (400) feet of any church, school,
185 kindergarten or funeral home. However, within an area zoned
186 commercial or business, such minimum distance shall be not less
187 than one hundred (100) feet.

188 A church or funeral home may waive the distance restrictions
189 imposed in this subsection in favor of allowing issuance by the
190 commission of a permit, pursuant to subsection (1) of this
191 section, to authorize activity relating to the manufacturing, sale
192 or storage of alcoholic beverages which would otherwise be



193 prohibited under the minimum distance criterion. Such waiver
194 shall be in written form from the owner, the governing body, or
195 the appropriate officer of the church or funeral home having the
196 authority to execute such a waiver, and the waiver shall be filed
197 with and verified by the commission before becoming effective.

198 The distance restrictions imposed in this subsection shall
199 not apply to the sale or storage of alcoholic beverages at a bed
200 and breakfast inn listed in the National Register of Historic
201 Places.

202 (4) No person, either individually or as a member of a firm,
203 partnership or association, or as a stockholder, officer or
204 director in a corporation, shall own or control any interest in
205 more than one (1) package retailer's permit, nor shall such
206 person's spouse, if living in the same household of such person,
207 any relative of such person, if living in the same household of
208 such person, or any other person living in the same household with
209 such person own any interest in any other package retailer's
210 permit.

211 **SECTION 2.** Section 27-71-5, Mississippi Code of 1972, is
212 amended as follows:

213 27-71-5. (1) Upon each person approved for a permit under
214 the provisions of the Alcoholic Beverage Control Law and
215 amendments thereto, there is levied and imposed for each location
216 for the privilege of engaging and continuing in this state in the
217 business authorized by such permit, an annual privilege license
218 tax in the amount provided in the following schedule:

- 219 (a) Manufacturer's permit, Class 1, distiller's and/or
220 rectifier's..... \$4,500.00
- 221 (b) Manufacturer's permit, Class 2, wine
222 manufacturer.....\$1,800.00
- 223 (c) Manufacturer's permit, Class 3, native wine
224 manufacturer per 10,000 gallons or part thereof produced... \$10.00
- 225 (d) Native wine retailer's permit..... \$50.00



226	(e) Package retailer's permit, each.....	\$900.00
227	(f) On-premises retailer's permit, except for clubs and	
228	common carriers, each.....	\$450.00
229	On purchases exceeding \$5,000.00 and for each additional	
230	\$5,000.00, or fraction thereof.....	\$225.00
231	(g) On-premises retailer's permit for wine of more than	
232	four percent (4%) alcohol by volume, but not more than twenty-one	
233	percent (21%) alcohol by volume (each).....	\$225.00
234	On purchases exceeding \$5,000.00 and for each additional	
235	\$5,000.00, or fraction thereof.....	\$225.00
236	(h) On-premises retailer's permit for clubs....	\$225.00
237	On purchases exceeding \$5,000.00 and for each additional	
238	\$5,000.00, or fraction thereof.....	\$225.00
239	(i) On-premises retailer's permit for common carriers,	
240	per car, plane, or other vehicle.....	\$120.00
241	(j) Solicitor's permit, regardless of any other	
242	provision of law, solicitor's permits shall be issued only in the	
243	discretion of the commission.....	\$100.00
244	(k) Filing fee for each application except for an	
245	employee identification card.....	\$25.00
246	(l) Temporary permit, Class 1, each.....	\$10.00
247	(m) Temporary permit, Class 2, each.....	\$50.00
248	On-premises purchases exceeding \$5,000.00 and for each	
249	additional \$5,000.00, or fraction thereof.....	\$225.00
250	(n) (i) Caterer's permit.....	\$600.00
251	On purchases exceeding \$5,000.00 and for each additional	
252	\$5,000.00, or fraction thereof.....	\$250.00
253	(ii) Caterer's permit for holders of on-premises	
254	retailer's permit.....	\$150.00
255	On purchases exceeding \$5,000.00 and for each additional	
256	\$5,000.00, or fraction thereof.....	\$250.00
257	(o) Research permit.....	\$100.00



258 (p) Filing fee for each application for an employee
 259 identification card..... \$5.00
 260 (q) Salon wine permit.....\$225.00

261 In addition to the filing fee imposed by item (k) of this
 262 subsection, a fee to be determined by the State Tax Commission may
 263 be charged to defray costs incurred to process applications. Such
 264 additional fees shall be paid into the State Treasury to the
 265 credit of a special fund account, which is hereby created, and
 266 expenditures therefrom shall be made only to defray the costs
 267 incurred by the State Tax Commission in processing alcoholic
 268 beverage applications. Any unencumbered balance remaining in the
 269 special fund account on June 30 of any fiscal year shall lapse
 270 into the State General Fund.

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

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

282 (2) There is imposed and shall be collected from each
 283 permittee, except a common carrier, solicitor, holder of an
 284 employee identification card or a temporary permittee, by the
 285 commission, an additional license tax equal to the amounts imposed
 286 under subsection (1) of this section for the privilege of doing
 287 business within any municipality or county in which the licensee
 288 is located. If the licensee is located within a municipality, the
 289 commission shall pay the amount of additional license tax to the
 290 municipality, and if outside a municipality the commission shall



291 pay the additional license tax to the county in which the licensee
292 is located. Payments by the commission to the respective local
293 government subdivisions shall be made once each month for any
294 collections during the preceding month.

295 (3) When an application for any permit, other than for
296 renewal of a permit, has been rejected by the commission, such
297 decision shall be final. Appeal may be made in the manner
298 provided by Section 67-1-39. Another application from an
299 applicant who has been denied a permit shall not be reconsidered
300 within a twelve-month period.

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

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

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

321 **SECTION 3.** This act shall take effect and be in force from
322 and after July 1, 2002.

