To: Ways and Means

MISSISSIPPI LEGISLATURE REGULAR SESSION 2003

By: Representative Fleming

HOUSE BILL NO. 174

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

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

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

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

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

(c) If the identical type and brand of wine shipped is sold at retail in this state at the time the shipment is made.
(2) A wholesaler, retailer or producer of wine who desires to ship wine pursuant to subsection (1) of this section shall register with the State Tax Commission and pay a registration fee of One Hundred Dollars ($100.00) and thereafter shall annually pay a fee of Fifty Dollars ($50.00) before making any shipment pursuant to this section. Each shipment shall be accompanied by an invoice detailing the transaction.

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

(4) It shall be unlawful for any wholesaler, retailer or producer of wine domiciled outside the State of Mississippi to:
   (a) Ship more than twenty-four (24) bottles of wine, which bottles may not exceed seven hundred fifty (750) milliliters each, directly to any household in one (1) month;
   (b) Ship wine to a person who is less than twenty-one (21) years of age;
   (c) Ship wine to a county that has not voted to come out from under the dry law; or
   (d) Ship wine if the identical type and brand of wine shipped is sold at retail in this state at the time the shipment is made.

(5) A wholesaler, retailer or producer who violates the provisions of this section shall, in addition to any other penalty prescribed by law, be punished as follows:
   (a) A first violation of this section shall be punishable by a penalty to be imposed by the State Tax Commission of not more than Five Thousand Dollars ($5,000.00).
(b) A second violation of this section shall constitute a felony and upon conviction shall be punishable by a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or by imprisonment in the State Penitentiary not less than one (1) year nor more than five (5) years, or both fine and imprisonment.

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

67-1-9. (1) (a) Except as otherwise provided in paragraph (b) of this subsection, it shall be unlawful for any person to manufacture, distill, brew, sell, possess, import into this state, export from the state, transport, distribute, warehouse, store, solicit, take order for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except as authorized in this chapter. However, nothing contained herein shall prevent importers, wineries and distillers of wine from storing such wine in private bonded warehouses located within the State of Mississippi for the ultimate use and benefit of the State Tax Commission as provided in Section 67-1-41. The commission is hereby authorized to promulgate rules and regulations for the establishment of such private bonded warehouses and for the control of wine stored in such warehouses. Additionally, nothing herein contained shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession, or prevent any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic liquors in the combination of prescriptions of duly licensed physicians. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this chapter.
(b) It shall not be unlawful for any person to import
or transport wine pursuant to Section 1 of House Bill No.____, 2003 Regular Session. It shall not be unlawful for any person to
possess wine shipped pursuant to Section 1 of House Bill No.____, 2003 Regular Session, in any county in this state that has voted
to come out from under the dry law, provided that the person
purchased the wine for his or her personal use only.

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

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

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

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

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

97-31-47. It shall be unlawful for any transportation
company, or any agent, employee, or officer of such company, or
any other person, or corporation to transport into or deliver in
this state in any manner or by any means any spirituous, vinous,
malt, or other intoxicating liquors or drinks, or for any such
person, company, or corporation to transport any spirituous, malt,
SECTION 4. Section 1 of this act shall be codified as a separate code section in Chapter 1, Title 67, Mississippi Code of 1972.

SECTION 5. This act shall take effect and be in force from and after July 1, 2003.