

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 337

1 AN ACT TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-11,
2 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-45,
3 67-1-51 AND 67-1-77, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
4 DISTRIBUTION OF WINE BY PRIVATE ENTITIES; TO PROVIDE THE ANNUAL
5 PRIVILEGE LICENSE TAX FOR A WINE DISTRIBUTOR'S PERMIT; TO PROVIDE
6 FOR AN EXCISE TAX ON WINE SOLD BY THE HOLDER OF A WINE
7 DISTRIBUTOR'S PERMIT AND THE COLLECTION OF SUCH TAX; TO REQUIRE
8 THE OPERATOR OF A VEHICLE TRANSPORTING WINE TO POSSESS AN INVOICE
9 ISSUED BY THE HOLDER OF A WINE DISTRIBUTOR'S PERMIT; TO PROVIDE
10 THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING WINE MAY BE
11 REQUIRED TO ENTER INTO A BOND PAYABLE TO THE STATE OF MISSISSIPPI
12 CONDITIONED THAT SUCH DISTRIBUTOR WILL CONDUCT HIS BUSINESS
13 LAWFULLY; TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE
14 RULES AND REGULATIONS GOVERNING THE PURCHASE FOR RESALE,
15 DISTRIBUTION AND SALE OF WINE; TO PROVIDE THAT THE STATE TAX
16 COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR OF WINE; TO
17 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE WINE DISTRIBUTOR'S
18 PERMITS; TO PROVIDE THAT SUCH PERMITS SHALL AUTHORIZE THE HOLDER
19 THEREOF TO PURCHASE WINE FROM ANY MANUFACTURER OR IMPORTER,
20 TRANSPORT WINE INTO THE STATE OF MISSISSIPPI, STORE WINE AT THE
21 PRIVATE BONDED WAREHOUSE OF SUCH PERMITTEE'S CHOICE AND SOLICIT
22 ORDERS FROM AND SELL WINE TO PERMITTEES WHO ARE AUTHORIZED TO SELL
23 WINE AT RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE KEPT FOR
24 THREE YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE ALCOHOLIC
25 BEVERAGE CONTROL DIVISION AT ANY TIME; TO REQUIRE THE HOLDER OF A
26 WINE DISTRIBUTOR'S PERMIT TO DELIVER WINE WITHIN THREE DAYS OF
27 RECEIPT OF THE ORDER; TO MAKE IT UNLAWFUL FOR A WINE DISTRIBUTOR
28 TO HAVE A FINANCIAL INTEREST IN ANY PREMISES UPON WHICH ANY
29 ALCOHOLIC BEVERAGE IS SOLD AT RETAIL; AND FOR RELATED PURPOSES.

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

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

33 27-71-5. (1) Upon each person approved for a permit under
34 the provisions of the Alcoholic Beverage Control Law and
35 amendments thereto, there is levied and imposed for each location
36 for the privilege of engaging and continuing in this state in the
37 business authorized by such permit, an annual privilege license
38 tax in the amount provided in the following schedule:

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



41	(b) Manufacturer's permit, Class 2, wine manufacturer	
42	\$1,800.00
43	(c) Manufacturer's permit, Class 3, native wine	
44	manufacturer per 10,000 gallons or part thereof produced	\$ 10.00
45	(d) Native wine retailer's permit.....	\$ 50.00
46	(e) Package retailer's permit, each.....	\$ 900.00
47	(f) On-premises retailer's permit, except for clubs and	
48	common carriers, each.....	\$ 450.00
49	On purchases exceeding \$5,000.00 and for each additional	
50	\$5,000.00, or fraction thereof.....	\$ 225.00
51	(g) On-premises retailer's permit for wine of more than	
52	four percent (4%) alcohol by volume, but not more than twenty-one	
53	percent (21%) alcohol by volume (each).....	\$ 225.00
54	On purchases exceeding \$5,000.00 and for each additional	
55	\$5,000.00, or fraction thereof.....	\$ 225.00
56	(h) On-premises retailer's permit for clubs..	\$ 225.00
57	On purchases exceeding \$5,000.00 and for each additional	
58	\$5,000.00, or fraction thereof.....	\$ 225.00
59	(i) On-premises retailer's permit for common carriers,	
60	per car, plane, or other vehicle.....	\$ 120.00
61	(j) Solicitor's permit, regardless of any other	
62	provision of law, solicitor's permits shall be issued only in the	
63	discretion of the commission.....	\$ 100.00
64	(k) Filing fee for each application except for an	
65	employee identification card.....	\$ 25.00
66	(l) Temporary permit, Class 1, each.....	\$ 10.00
67	(m) Temporary permit, Class 2, each.....	\$ 50.00
68	On-premises purchases exceeding \$5,000.00 and for each	
69	additional \$5,000.00, or fraction thereof.....	\$ 225.00
70	(n) (i) Caterer's permit.....	\$ 600.00
71	On purchases exceeding \$5,000.00 and for each additional	
72	\$5,000.00, or fraction thereof.....	\$ 250.00



73	(ii) Caterer's permit for holders of on-premises	
74	retailer's permit.....	\$ 150.00
75	On purchases exceeding \$5,000.00 and for each additional	
76	\$5,000.00, or fraction thereof.....	\$ 250.00
77	(o) Research permit.....	\$ 100.00
78	(p) Filing fee for each application for an employee	
79	identification card.....	\$ 5.00
80	(q) <u>Wine distributor's permit.....</u>	<u>\$1,800.00</u>

81 In addition to the filing fee imposed by item (k) of this
82 subsection, a fee to be determined by the State Tax Commission may
83 be charged to defray costs incurred to process applications. Such
84 additional fees shall be paid into the State Treasury to the
85 credit of a special fund account, which is hereby created, and
86 expenditures therefrom shall be made only to defray the costs
87 incurred by the State Tax Commission in processing alcoholic
88 beverage applications. Any unencumbered balance remaining in the
89 special fund account on June 30 of any fiscal year shall lapse
90 into the State General Fund.

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

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

102 (2) There is imposed and shall be collected from each
103 permittee, except a common carrier, solicitor, holder of an
104 employee identification card or a temporary permittee, by the
105 commission, an additional license tax equal to the amounts imposed



106 under subsection (1) of this section for the privilege of doing
107 business within any municipality or county in which the licensee
108 is located. If the licensee is located within a municipality, the
109 commission shall pay the amount of additional license tax to the
110 municipality, and if outside a municipality the commission shall
111 pay the additional license tax to the county in which the licensee
112 is located. Payments by the commission to the respective local
113 government subdivisions shall be made once each month for any
114 collections during the preceding month.

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

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

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

134 (6) It shall be unlawful for any person to consume alcoholic
135 beverages on the premises of any hotel restaurant, restaurant,
136 club or the interior of any public place defined in Chapter 1,
137 Title 67, Mississippi Code of 1972, when the owner or manager
138 thereof displays in several conspicuous places inside said



139 establishment and at the entrances thereto a sign containing the
140 following language: NO ALCOHOLIC BEVERAGES ALLOWED.

141 **SECTION 2.** Section 27-71-7, Mississippi Code of 1972, is
142 amended as follows:

143 27-71-7. (1) There is hereby levied and assessed an excise
144 tax upon each case of alcoholic beverages sold by the commission
145 or the holder of a wine distributor's permit to be collected from
146 each retail licensee at the time of sale in accordance with the
147 following schedule:

- 148 (a) Distilled spirits..... \$2.50 per gallon
- 149 (b) Sparkling wine and champagne..... \$1.00 per gallon
- 150 (c) Other wines, including native
151 wines..... \$.35 per gallon

152 (2) (a) In addition to the tax levied by subsection (1) of
153 this section, and in addition to any other markup collected, the
154 Alcoholic Beverage Control Division and the holder of a wine
155 distributor's permit shall collect a markup of three percent (3%)
156 on all alcoholic beverages, as defined in Section 67-1-5,
157 Mississippi Code of 1972, which are sold by the division or the
158 holder of a wine distributor's permit. The proceeds of the markup
159 shall be collected by the division or the holder of a wine
160 distributor's permit, as appropriate, from each purchaser at the
161 time of purchase.

162 (b) Until June 30, 1987, the revenue derived from this
163 three percent (3%) markup shall be deposited by the division in
164 the State Treasury to the credit of the "Alcoholism Treatment and
165 Rehabilitation Fund," a special fund which is hereby created in
166 the State Treasury, and shall be used by the Division of Alcohol
167 and Drug Abuse of the State Department of Mental Health and public
168 or private centers or organizations solely for funding of
169 treatment and rehabilitation programs for alcoholics and alcohol
170 abusers which are sponsored by the division or public or private
171 centers or organizations in such amounts as the Legislature may



172 appropriate to the division for use by the division or public or
173 private centers or organizations for such programs. Any tax
174 revenue in the fund which is not encumbered at the end of the
175 fiscal year shall lapse to the General Fund. It is the intent of
176 the Legislature that the State Department of Mental Health shall
177 continue to seek funds from other sources and shall use the funds
178 appropriated for the purposes of this section and Section 27-71-29
179 to match all federal funds which may be available for alcoholism
180 treatment and rehabilitation.

181 From and after July 1, 1987, the revenue derived from this
182 three percent (3%) markup shall be deposited by the division in
183 the State Treasury to the credit of the "Mental Health Programs
184 Fund," a special fund which is hereby created in the State
185 Treasury and shall be used by the State Department of Mental
186 Health for the service programs of the department. Any revenue in
187 the "Alcoholism Treatment and Rehabilitation Fund" which is not
188 encumbered at the end of Fiscal Year 1987 shall be deposited to
189 the credit of the "Mental Health Programs Fund."

190 (3) If the tax and markup provided for in subsections (1)
191 and (2) of this section are collected by the holder of a wine
192 distributor's permit, the proceeds of such tax and markup shall be
193 remitted to the State Tax Commission on or before the fifteenth
194 day of the month following the month in which the tax and markup
195 were collected.

196 **SECTION 3.** Section 27-71-11, Mississippi Code of 1972, is
197 amended as follows:

198 27-71-11. The commission shall from time to time by
199 resolution request the State Bond Commission to provide sufficient
200 funds required to maintain an adequate alcoholic beverage
201 inventory. Said funds shall be provided under the provisions of
202 Chapter 557, Laws of 1966.

203 The commission shall add to the cost of all alcoholic
204 beverages it distributes a markup of twenty-seven and one-half



205 percent (27-1/2%), inclusive of the three percent (3%) markup
206 imposed by Section 27-71-7(2).

207 The commission shall sell alcoholic beverages at uniform
208 prices throughout the state.

209 **SECTION 4.** Section 27-71-15, Mississippi Code of 1972, is
210 amended as follows:

211 27-71-15. Except as otherwise provided in Section 67-9-1 for
212 the transportation of limited amounts of alcoholic beverages for
213 the use of an alcohol processing permittee, if transportation
214 requires passage through a county which has not authorized the
215 sale of alcoholic beverages, such transportation shall be by a
216 sealed vehicle. Such seal shall remain unbroken until the vehicle
217 shall reach the place of business operated by the permittee. The
218 operator of any vehicle transporting alcoholic beverages shall
219 have in his possession an invoice issued by the commission or the
220 holder of a wine distributor's permit at the time of the wholesale
221 sale covering the merchandise transported by the vehicle. The
222 commission is authorized to issue regulations controlling the
223 transportation of alcoholic beverages.

224 When the restrictions imposed by this section and by the
225 regulation of the commission have not been violated, the person
226 transporting alcoholic beverages through a county wherein the sale
227 of alcoholic beverages is prohibited shall not be guilty of
228 unlawful possession and such merchandise shall be immune from
229 seizure.

230 **SECTION 5.** Section 27-71-21, Mississippi Code of 1972, is
231 amended as follows:

232 27-71-21. Before any person shall engage in the business of
233 manufacturing or retailing of alcoholic beverages or distributing
234 wine, he may be required to enter into a bond payable to the State
235 of Mississippi, conditioned that he will conduct said business
236 strictly in accordance with the laws of the State of Mississippi,
237 and that he will comply with the rules and regulations prescribed



238 by the commission, and pay all taxes due the State of Mississippi.
239 The amount of a bond required of a manufacturer or a wine
240 distributor, not including a producer of native wine, shall not
241 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount
242 required of a retailer shall be Five Thousand Dollars (\$5,000.00).
243 Provided, however, any retailer whose check for purchase of
244 merchandise or payment of taxes shall be dishonored may be
245 required by the commission to post additional bond not to exceed
246 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
247 surety company authorized to do business in the State of
248 Mississippi and shall be approved by the commission. The
249 commission shall be authorized to institute suit in the proper
250 court for any violation of the condition of said bonds. The
251 amount of the bond required of a producer of native wine shall be
252 Five Thousand Dollars (\$5,000.00).

253 As an alternative to entering into a bond as required by this
254 section, any person who shall engage in the business of
255 manufacturing or retailing alcoholic beverages or distributing
256 wine may, subject to the same conditions of conduct required for
257 bonds, deposit with the State Treasurer the equivalent amount of
258 the bond required for that particular person in cash or
259 securities. The only securities allowable for this purpose are
260 those which may legally be purchased by a bank or for trust funds,
261 having a market value not less than that of the required bond.
262 The commission shall file notice with the Treasurer for any
263 violation of the conditions of the cash or security deposit.

264 **SECTION 6.** Section 67-1-5, Mississippi Code of 1972, is
265 amended as follows:

266 67-1-5. For the purposes of this chapter and unless
267 otherwise required by the context:

268 (a) * * * "Alcoholic beverage" mean any alcoholic
269 liquid, including wines of more than five percent (5%) of alcohol
270 by weight, capable of being consumed as a beverage by a human



271 being, but shall not include wine containing five percent (5%) or
272 less of alcohol by weight and shall not include beer containing
273 not more than five percent (5%) of alcohol by weight, as provided
274 for in Section 67-3-5, Mississippi Code of 1972, but shall include
275 native wines. The words "alcoholic beverage" shall not include
276 ethyl alcohol manufactured or distilled solely for fuel purposes.

277 (b) * * * "Alcohol" means the product of distillation
278 of any fermented liquid, whatever the origin thereof, and includes
279 synthetic ethyl alcohol, but does not include denatured alcohol or
280 wood alcohol.

281 (c) * * * "Distilled spirits" mean any beverage
282 containing more than four percent (4%) of alcohol by weight
283 produced by distillation of fermented grain, starch, molasses or
284 sugar, including dilutions and mixtures of these beverages.

285 (d) * * * "Wine" or "vinous liquor" mean any product
286 obtained from the alcoholic fermentation of the juice of sound,
287 ripe grapes, fruits or berries and made in accordance with the
288 revenue laws of the United States.

289 (e) * * * "Person" means and includes any individual,
290 partnership, corporation, association or other legal entity
291 whatsoever.

292 (f) * * * "Manufacturer" means any person engaged in
293 manufacturing, distilling, rectifying, blending or bottling any
294 alcoholic beverage.

295 (g) * * * "Wholesaler" means any person, other than a
296 manufacturer, engaged in distributing or selling any alcoholic
297 beverage at wholesale for delivery within or without this state
298 when such sale is for the purpose of resale by the purchaser.

299 (h) * * * "Retailer" means any person who sells,
300 distributes, or offers for sale or distribution, any alcoholic
301 beverage for use or consumption by the purchaser and not for
302 resale.



303 (i) * * * "Commission" means the State Tax Commission
304 of the State of Mississippi, which shall create a division in its
305 organization to be known as the Alcoholic Beverage Control
306 Division. Any reference to the commission hereafter means the
307 powers and duties of the State Tax Commission with reference to
308 supervision of the Alcoholic Beverage Control Division.

309 (j) * * * "Division" means the Alcoholic Beverage
310 Control Division of the State Tax Commission.

311 (k) * * * "Municipality" means any incorporated city or
312 town of this state.

313 (l) * * * "Hotel" means an establishment within a
314 municipality, or within a qualified resort area approved as such
315 by the commission, where, in consideration of payment, food and
316 lodging are habitually furnished to travelers and wherein are
317 located at least twenty (20) adequately furnished and completely
318 separate sleeping rooms with adequate facilities that persons
319 usually apply for and receive as overnight accommodations. Hotels
320 in towns or cities of more than twenty-five thousand (25,000)
321 population are similarly defined except that they must have fifty
322 (50) or more sleeping rooms. Any such establishment described in
323 this paragraph with less than fifty (50) beds shall operate one or
324 more regular dining rooms designed to be constantly frequented by
325 customers each day. When used in this chapter, the word "hotel"
326 shall also be construed to include any establishment that meets
327 the definition of "bed and breakfast inn" as provided in this
328 section.

329 (m) * * * "Restaurant" means a place which is regularly
330 and in a bona fide manner used and kept open for the serving of
331 meals to guests for compensation, which has suitable seating
332 facilities for guests, and which has suitable kitchen facilities
333 connected therewith for cooking an assortment of foods and meals
334 commonly ordered at various hours of the day; the service of such
335 food as sandwiches and salads only shall not be deemed in



336 compliance with this requirement. No place shall qualify as a
337 restaurant under this chapter unless twenty-five percent (25%) or
338 more of the revenue derived from such place shall be from the
339 preparation, cooking and serving of meals and not from the sale of
340 beverages, or unless the value of food given to and consumed by
341 customers is equal to twenty-five percent (25%) or more of total
342 revenue.

343 (n) * * * "Club" means an association or a corporation:

344 (i) Organized or created under the laws of this
345 state for a period of five (5) years prior to July 1, 1966;

346 (ii) Organized not primarily for pecuniary profit
347 but for the promotion of some common object other than the sale or
348 consumption of alcoholic beverages;

349 (iii) Maintained by its members through the
350 payment of annual dues;

351 (iv) Owning, hiring or leasing a building or space
352 in a building of such extent and character as may be suitable and
353 adequate for the reasonable and comfortable use and accommodation
354 of its members and their guests;

355 (v) The affairs and management of which are
356 conducted by a board of directors, board of governors, executive
357 committee, or similar governing body chosen by the members at a
358 regular meeting held at some periodic interval; and

359 (vi) No member, officer, agent or employee of
360 which is paid, or directly or indirectly receives, in the form of
361 a salary or other compensation any profit from the distribution or
362 sale of alcoholic beverages to the club or to members or guests of
363 the club beyond such salary or compensation as may be fixed and
364 voted at a proper meeting by the board of directors or other
365 governing body out of the general revenues of the club.

366 The commission may, in its discretion, waive the five-year
367 provision of this paragraph. In order to qualify under this
368 paragraph, a club must file with the commission, at the time of



369 its application for a license under this chapter, two (2) copies
370 of a list of the names and residences of its members and similarly
371 file, within ten (10) days after the election of any additional
372 member, his name and address. Each club applying for a license
373 shall also file with the commission at the time of the application
374 a copy of its articles of association, charter of incorporation,
375 bylaws or other instruments governing the business and affairs
376 thereof.

377 (o) * * * "Qualified resort area" means any area or
378 locality outside of the limits of incorporated municipalities in
379 this state commonly known and accepted as a place which regularly
380 and customarily attracts tourists, vacationists and other
381 transients because of its historical, scenic or recreational
382 facilities or attractions, or because of other attributes which
383 regularly and customarily appeal to and attract tourists,
384 vacationists and other transients in substantial numbers; however,
385 no area or locality shall so qualify as a resort area until it has
386 been duly and properly approved as such by the commission.

387 (i) The commission may approve an area or locality
388 outside of the limits of an incorporated municipality that is in
389 the process of being developed as a qualified resort area if such
390 area or locality, when developed, can reasonably be expected to
391 meet the requisites of the definition of the term "qualified
392 resort area." In such a case, the status of qualified resort area
393 shall not take effect until completion of the development.

394 (ii) The term includes any state park which is
395 declared a resort area by the commission; however, such
396 declaration may only be initiated in a written request for resort
397 area status made to the commission by the Executive Director of
398 the Department of Wildlife, Fisheries and Parks, and no permit for
399 the sale of any alcoholic beverage, as defined in this chapter,
400 except an on-premises retailer's permit, shall be issued for a
401 hotel, restaurant or bed and breakfast inn in such park.



402 (iii) The term includes the clubhouses associated
403 with the state park golf courses at the Lefleur's Bluff State
404 Park, the John Kyle State Park, the Percy Quin State Park and the
405 Hugh White State Park. The status of these clubhouses as
406 qualified resort areas does not require any declaration of same by
407 the commission.

408 (p) * * * "Native wine" means any product, produced in
409 Mississippi for sale, having an alcohol content not to exceed
410 twenty-one percent (21%) by weight and made in accordance with
411 revenue laws of the United States, which shall be obtained
412 primarily from the alcoholic fermentation of the juice of ripe
413 grapes, fruits, berries or vegetables grown and produced in
414 Mississippi; provided that bulk, concentrated or fortified wines
415 used for blending may be produced without this state and used in
416 producing native wines. The commission shall adopt and promulgate
417 rules and regulations to permit a producer to import such bulk
418 and/or fortified wines into this state for use in blending with
419 native wines without payment of any excise tax that would
420 otherwise accrue thereon.

421 (q) * * * "Native winery" means any place or
422 establishment within the State of Mississippi where native wine is
423 produced in whole or in part for sale.

424 (r) * * * "Bed and breakfast inn" mean an establishment
425 within a municipality where in consideration of payment, breakfast
426 and lodging are habitually furnished to travelers and wherein are
427 located not less than eight (8) and not more than nineteen (19)
428 adequately furnished and completely separate sleeping rooms with
429 adequate facilities, that persons usually apply for and receive as
430 overnight accommodations; however, such restriction on the minimum
431 number of sleeping rooms shall not apply to establishments on the
432 National Register of Historic Places. No place shall qualify as a
433 bed and breakfast inn under this chapter unless on the date of the
434 initial application for a license under this chapter more than



435 fifty percent (50%) of the sleeping rooms are located in a
436 structure formerly used as a residence.

437 (s) "Wine distributor" means a person engaged in
438 purchasing, transporting and storing wine or vinous liquor within
439 the State of Mississippi and selling at wholesale wine or vinous
440 liquor to permittees who are authorized to sell wine at retail.

441 **SECTION 7.** Section 67-1-9, Mississippi Code of 1972, is
442 amended as follows:

443 67-1-9. (1) It shall be unlawful for any person to
444 manufacture, distill, brew, sell, possess, import into this state,
445 export from the state, transport, distribute, warehouse, store,
446 solicit, take order for, bottle, rectify, blend, treat, mix or
447 process any alcoholic beverage except as authorized in this
448 chapter. However, nothing contained herein shall prevent
449 importers, wineries and distillers of alcoholic beverages from
450 storing such alcoholic beverages in private bonded warehouses
451 located within the State of Mississippi for the ultimate use and
452 benefit of the State Tax Commission as provided in Section
453 67-1-41, and nothing contained herein shall prohibit the holder of
454 a wine distributor's permit from storing wine in private bonded
455 warehouses located in the State of Mississippi for resale to
456 authorized permittees. The commission is hereby authorized to
457 promulgate rules and regulations for the establishment of such
458 private bonded warehouses and for the control of alcoholic
459 beverages stored in such warehouses. Additionally, nothing herein
460 contained shall prevent any duly licensed practicing physician or
461 dentist from possessing or using alcoholic liquor in the strict
462 practice of his profession, or prevent any hospital or other
463 institution caring for sick and diseased persons, from possessing
464 and using alcoholic liquor for the treatment of bona fide patients
465 of such hospital or other institution. Any drugstore employing a
466 licensed pharmacist may possess and use alcoholic liquors in the
467 combination of prescriptions of duly licensed physicians. The



468 possession and dispensation of wine by an authorized
469 representative of any church for the purpose of conducting any
470 bona fide rite or religious ceremony conducted by such church
471 shall not be prohibited by this chapter.

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

474 (a) By a fine of not less than One Hundred Dollars
475 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
476 imprisonment in the county jail not less than one (1) week nor
477 more than three (3) months, or both, for the first conviction
478 under this section.

479 (b) By a fine of not less than One Hundred Dollars
480 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
481 imprisonment in the county jail not less than sixty (60) days, nor
482 more than six (6) months, or both fine and imprisonment, for the
483 second conviction for violating this section.

484 (c) By a fine of not less than One Hundred Dollars
485 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
486 imprisonment in the State Penitentiary not less than one (1) year,
487 nor more than five (5) years, or both fine and imprisonment, for
488 conviction the third time under this section for the violation
489 thereof after having been twice convicted of its violation.

490 **SECTION 8.** Section 67-1-37, Mississippi Code of 1972, is
491 amended as follows:

492 **[Until July 1, 2003, this section will read as follows:]**

493 67-1-37. The State Tax Commission, under its duties and
494 powers with respect to the Alcoholic Beverage Control Division
495 therein, shall have the following powers, functions and duties:

496 (a) To issue or refuse to issue any permit provided for
497 by this chapter, or to extend the permit or remit in whole or any
498 part of the permit monies when the permit cannot be used due to a
499 natural disaster or Act of God.



500 (b) To revoke, suspend or cancel, for violation of or
501 noncompliance with the provisions of this chapter, or the law
502 governing the production and sale of native wines, or any lawful
503 rules and regulations of the commission issued hereunder, or for
504 other sufficient cause, any permit issued by it under the
505 provisions of this chapter; however, no such permit shall be
506 revoked, suspended or cancelled except after a hearing of which
507 the permit holder shall have been given reasonable notice and an
508 opportunity to be heard. The commission shall be authorized to
509 suspend the permit of any permit holder for being out of
510 compliance with an order for support, as defined in Section
511 93-11-153. The procedure for suspension of a permit for being out
512 of compliance with an order for support, and the procedure for the
513 reissuance or reinstatement of a permit suspended for that
514 purpose, and the payment of any fees for the reissuance or
515 reinstatement of a permit suspended for that purpose, shall be
516 governed by Section 93-11-157 or Section 93-11-163, as the case
517 may be. If there is any conflict between any provision of Section
518 93-11-157 or Section 93-11-163 and any provision of this chapter,
519 the provisions of Section 93-11-157 or Section 93-11-163, as the
520 case may be, shall control.

521 (c) To prescribe forms of permits and applications for
522 permits and of all reports which it deems necessary in
523 administering this chapter.

524 (d) To fix standards, not in conflict with those
525 prescribed by any law of this state or of the United States, to
526 secure the use of proper ingredients and methods of manufacture of
527 alcoholic beverages.

528 (e) To issue rules regulating the advertising of
529 alcoholic beverages in the state in any class of media and
530 permitting advertising of the retail price of alcoholic beverages.

531 (f) To issue reasonable rules and regulations, not
532 inconsistent with the federal laws or regulations, requiring



533 informative labeling of all alcoholic beverages offered for sale
534 within this state and providing for the standards of fill and
535 shapes of retail containers of alcoholic beverages; however, such
536 containers shall not contain less than fifty (50) milliliters by
537 liquid measure.

538 (g) Subject to the provisions of * * * Section
539 67-1-51(3), to issue rules and regulations governing the issuance
540 of retail permits for premises located near or around schools,
541 colleges, universities, churches and other public institutions,
542 and specifying the distances therefrom within which no such permit
543 shall be issued. The Alcoholic Beverage Control Division shall
544 not allow the sale or consumption of alcoholic beverages in or on
545 the campus of any public school or college, and no alcoholic
546 beverage shall be for sale or consumed at any public athletic
547 event at any grammar or high school or any college.

548 (h) To adopt and promulgate, repeal and amend, such
549 rules, regulations, standards, requirements and orders, not
550 inconsistent with this chapter or any law of this state or of the
551 United States, as it deems necessary to control the manufacture,
552 importation, transportation, distribution and sale of alcoholic
553 liquor, whether intended for beverage or nonbeverage use in a
554 manner not inconsistent with the provisions of this chapter or any
555 other statute, including the native wine laws.

556 (i) To call upon other administrative departments of
557 the state, county and municipal governments, county and city
558 police departments and upon prosecuting officers for such
559 information and assistance as it may deem necessary in the
560 performance of its duties.

561 (j) To prepare and submit to the Governor during the
562 month of January of each year a detailed report of its official
563 acts during the preceding fiscal year ending June 30, including
564 such recommendations as it may see fit to make, and to transmit a



565 like report to each member of the Legislature of this state upon
566 the convening thereof at its next regular session.

567 (k) To inspect, or cause to be inspected, any premises
568 where alcoholic liquors intended for sale are manufactured,
569 stored, distributed or sold, and to examine or cause to be
570 examined all books and records pertaining to the business
571 conducted therein.

572 (l) In the conduct of any hearing authorized to be held
573 by the commission, to hear testimony and take proof material for
574 its information in the discharge of its duties under this chapter;
575 to issue subpoenas, which shall be effective in any part of this
576 state, requiring the attendance of witnesses and the production of
577 books and records; to administer or cause to be administered
578 oaths; and to examine or cause to be examined any witness under
579 oath. Any court of record, or any judge thereof, may by order
580 duly entered require the attendance of witnesses and the
581 production of relevant books subpoenaed by the commission, and
582 such court or judge may compel obedience to its or his order by
583 proceedings for contempt.

584 (m) To investigate the administration of laws in
585 relation to alcoholic liquors in this and other states and any
586 foreign countries, and to recommend from time to time to the
587 Governor and through him to the Legislature of this state such
588 amendments to this chapter, if any, as it may think desirable.

589 (n) To designate hours and days when alcoholic
590 beverages may be sold in different localities in the state which
591 permit such sale.

592 (o) To assign employees to posts of duty at locations
593 where they will be most beneficial for the control of alcoholic
594 beverages, to remove, to dismiss, to suspend without pay, to act
595 as a trial board in hearings based upon charges against employees.
596 After twelve (12) months' service, no employee shall be removed,
597 dismissed, demoted or suspended without just cause and only after



598 being furnished with reasons for such removal, dismissal, demotion
599 or suspension, and upon request given a hearing in his own
600 defense.

601 (p) All hearings conducted by the commission shall be
602 open to the public, and, when deemed necessary, a written
603 transcript shall be made of the testimony introduced thereat.

604 (q) To adopt and promulgate rules and regulations for
605 suspension or revocation of identification cards of employees of
606 permittees for violations of the alcoholic beverage control laws,
607 rules or regulations.

608 (r) To enforce the provisions made unlawful by Sections
609 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

610 (s) To adopt and promulgate rules and regulations
611 governing the purchase for resale, distribution and sale of wine
612 or vinous liquor.

613 **[From and after July 1, 2003, this section will read as**
614 **follows:]**

615 67-1-37. The State Tax Commission, under its duties and
616 powers with respect to the Alcoholic Beverage Control Division
617 therein, shall have the following powers, functions and duties:

618 (a) To issue or refuse to issue any permit provided for
619 by this chapter, or to extend the permit or remit in whole or any
620 part of the permit monies when the permit cannot be used due to a
621 natural disaster or Act of God.

622 (b) To revoke, suspend or cancel, for violation of or
623 noncompliance with the provisions of this chapter, or the law
624 governing the production and sale of native wines, or any lawful
625 rules and regulations of the commission issued hereunder, or for
626 other sufficient cause, any permit issued by it under the
627 provisions of this chapter; however, no such permit shall be
628 revoked, suspended or cancelled except after a hearing of which
629 the permit holder shall have been given reasonable notice and an
630 opportunity to be heard. The commission shall be authorized to



631 suspend the permit of any permit holder for being out of
632 compliance with an order for support, as defined in Section
633 93-11-153. The procedure for suspension of a permit for being out
634 of compliance with an order for support, and the procedure for the
635 reissuance or reinstatement of a permit suspended for that
636 purpose, and the payment of any fees for the reissuance or
637 reinstatement of a permit suspended for that purpose, shall be
638 governed by Section 93-11-157 or 93-11-163, as the case may be.
639 If there is any conflict between any provision of Section
640 93-11-157 or 93-11-163 and any provision of this chapter, the
641 provisions of Section 93-11-157 or 93-11-163, as the case may be,
642 shall control.

643 (c) To prescribe forms of permits and applications for
644 permits and of all reports which it deems necessary in
645 administering this chapter.

646 (d) To fix standards, not in conflict with those
647 prescribed by any law of this state or of the United States, to
648 secure the use of proper ingredients and methods of manufacture of
649 alcoholic beverages.

650 (e) To issue rules regulating the advertising of
651 alcoholic beverages in the state in any class of media and
652 permitting advertising of the retail price of alcoholic beverages.

653 (f) To issue reasonable rules and regulations, not
654 inconsistent with the federal laws or regulations, requiring
655 informative labeling of all alcoholic beverages offered for sale
656 within this state and providing for the standards of fill and
657 shapes of retail containers of alcoholic beverages; however, such
658 containers shall not contain less than fifty (50) milliliters by
659 liquid measure.

660 (g) Subject to the provisions of * * * Section
661 67-1-51(3), to issue rules and regulations governing the issuance
662 of retail permits for premises located near or around schools,
663 colleges, universities, churches and other public institutions,



664 and specifying the distances therefrom within which no such permit
665 shall be issued. The Alcoholic Beverage Control Division shall
666 not allow the sale or consumption of alcoholic beverages in or on
667 the campus of any public school or college, and no alcoholic
668 beverage shall be for sale or consumed at any public athletic
669 event at any grammar or high school or any college.

670 (h) To adopt and promulgate, repeal and amend, such
671 rules, regulations, standards, requirements and orders, not
672 inconsistent with this chapter or any law of this state or of the
673 United States, as it deems necessary to control the manufacture,
674 importation, transportation, distribution and sale of alcoholic
675 liquor, whether intended for beverage or nonbeverage use in a
676 manner not inconsistent with the provisions of this chapter or any
677 other statute, including the native wine laws.

678 (i) To call upon other administrative departments of
679 the state, county and municipal governments, county and city
680 police departments and upon prosecuting officers for such
681 information and assistance as it may deem necessary in the
682 performance of its duties.

683 (j) To prepare and submit to the Governor during the
684 month of January of each year a detailed report of its official
685 acts during the preceding fiscal year ending June 30, including
686 such recommendations as it may see fit to make, and to transmit a
687 like report to each member of the Legislature of this state upon
688 the convening thereof at its next regular session.

689 (k) To inspect, or cause to be inspected, any premises
690 where alcoholic liquors intended for sale are manufactured,
691 stored, distributed or sold, and to examine or cause to be
692 examined all books and records pertaining to the business
693 conducted therein.

694 (l) In the conduct of any hearing authorized to be held
695 by the commission, to hear testimony and take proof material for
696 its information in the discharge of its duties under this chapter;



697 to issue subpoenas, which shall be effective in any part of this
698 state, requiring the attendance of witnesses and the production of
699 books and records; to administer or cause to be administered
700 oaths; and to examine or cause to be examined any witness under
701 oath. Any court of record, or any judge thereof, may by order
702 duly entered require the attendance of witnesses and the
703 production of relevant books subpoenaed by the commission, and
704 such court or judge may compel obedience to its or his order by
705 proceedings for contempt.

706 (m) To investigate the administration of laws in
707 relation to alcoholic liquors in this and other states and any
708 foreign countries, and to recommend from time to time to the
709 Governor and through him to the Legislature of this state such
710 amendments to this chapter, if any, as it may think desirable.

711 (n) To designate hours and days when alcoholic
712 beverages may be sold in different localities in the state which
713 permit such sale.

714 (o) To assign employees to posts of duty at locations
715 where they will be most beneficial for the control of alcoholic
716 beverages, to remove, to dismiss, to suspend without pay, to act
717 as a trial board in hearings based upon charges against employees.
718 After twelve (12) months' service, no employee shall be removed,
719 dismissed, demoted or suspended without just cause and only after
720 being furnished with reasons for such removal, dismissal, demotion
721 or suspension, and upon request given a hearing in his own
722 defense.

723 (p) All hearings conducted by the commission shall be
724 open to the public, and, when deemed necessary, a written
725 transcript shall be made of the testimony introduced thereat.

726 (q) To adopt and promulgate rules and regulations for
727 suspension or revocation of identification cards of employees of
728 permittees for violations of the alcoholic beverage control laws,
729 rules or regulations.



730 (r) To adopt and promulgate rules and regulations
731 governing the purchase for resale, distribution and sale of wine
732 or vinous liquor.

733 **SECTION 9.** Section 67-1-41, Mississippi Code of 1972, is
734 amended as follows:

735 67-1-41. (1) The State Tax Commission is hereby created a
736 wholesale distributor and seller of alcoholic beverages, not
737 including malt liquors and wine or vinous liquor, within the State
738 of Mississippi. It is granted the sole right to import and sell
739 such intoxicating liquors at wholesale within the state, and no
740 person who is granted the right to sell, distribute or receive
741 such liquors at retail shall purchase any such intoxicating
742 liquors from any source other than the commission except as
743 authorized in subsections (4) and (9) of this section, provided
744 that retailers and consumers may purchase native wines directly
745 from the producer. The commission may establish warehouses,
746 purchase intoxicating liquors in such quantities and from such
747 sources as it may deem desirable and sell the same to authorized
748 permittees within the state including, at the discretion of the
749 commission, any retail distributors operating within any military
750 post or qualified resort areas within the boundaries of the state,
751 keeping a correct and accurate record of all such transactions and
752 exercising such control over the distribution of alcoholic
753 beverages as seem right and proper in keeping with the provisions
754 or purposes of this chapter.

755 The commission is empowered to borrow such working capital as
756 may be required, not to exceed the sum of Nine Hundred Thousand
757 Dollars (\$900,000.00). Such loan shall be repaid from the
758 earnings of the wholesale liquor business.

759 The commission is hereby authorized to use and to promulgate
760 rules for the affixing of identification stamps to each container
761 of alcoholic liquor.



762 (2) No person for the purpose of sale shall manufacture,
763 distill, brew, sell, possess, export, transport, distribute,
764 warehouse, store, solicit, take orders for, bottle, rectify,
765 blend, treat, mix or process any alcoholic beverage except in
766 accordance with authority granted under this chapter, or as
767 otherwise provided by law for native wines.

768 (3) No alcoholic beverage intended for sale or resale shall
769 be imported, shipped or brought into this state for delivery to
770 any person other than as provided in this chapter, or as otherwise
771 provided by law for native wines.

772 (4) The commission may promulgate rules and regulations
773 which authorize on-premises retailers to purchase limited amounts
774 of alcoholic beverages from package retailers and for package
775 retailers to purchase limited amounts of alcoholic beverages from
776 other package retailers. The commission shall develop and provide
777 forms to be completed by the on-premises retailers and the package
778 retailers verifying the transaction. The completed forms shall be
779 forwarded to the commission within a period of time prescribed by
780 the commission.

781 (5) The commission may promulgate rules which authorize the
782 holder of a package retailer's permit to permit individual retail
783 purchasers of packages of alcoholic beverages to return, for
784 exchange, credit or refund, limited amounts of original sealed and
785 unopened packages of alcoholic beverages purchased by such
786 individual from the package retailer.

787 (6) The commission shall maintain all forms to be completed
788 by applicants necessary for licensure by the commission at all
789 district offices of the commission.

790 (7) The commission may promulgate rules which authorize the
791 manufacturer of an alcoholic beverage or wine to import, transport
792 and furnish or give a sample of alcoholic beverages or wines to
793 the holders of package retailer's permits, on-premises retailer's
794 permits, native wine retailer's permits and temporary retailer's



795 permits who have not previously purchased the brand of that
796 manufacturer from the commission. For each holder of the
797 designated permits, the manufacturer may furnish not more than
798 five hundred (500) milliliters of any brand of alcoholic beverage
799 and not more than three (3) liters of any brand of wine.

800 (8) The commission may promulgate rules disallowing open
801 product sampling of alcoholic beverages or wines by the holders of
802 package retailer's permits and permitting open product sampling of
803 alcoholic beverages by the holders of on-premises retailer's
804 permits. Permitted sample products shall be plainly identified
805 "sample" and the actual sampling must occur in the presence of the
806 manufacturer's representatives during the legal operating hours of
807 on-premises retailers.

808 (9) The commission may promulgate rules and regulations that
809 authorize the holder of a research permit to import and purchase
810 limited amounts of alcoholic beverages from importers, wineries
811 and distillers of alcoholic beverages or from the commission. The
812 commission shall develop and provide forms to be completed by the
813 research permittee verifying each transaction. The completed
814 forms shall be forwarded to the commission within a period of time
815 prescribed by the commission. The records and inventory of
816 alcoholic beverages shall be open to inspection at any time by the
817 Director of the Alcoholic Beverage Control Division or any duly
818 authorized agent.

819 **SECTION 10.** Section 67-1-45, Mississippi Code of 1972, is
820 amended as follows:

821 67-1-45. No manufacturer, rectifier, or distiller of
822 intoxicating liquor shall sell or attempt to sell any such
823 intoxicating liquor, except malt liquor and wine or vinous liquor,
824 within the State of Mississippi, except to the commission, or to
825 the holder of a research permit as provided in Section 67-1-41.
826 However, a producer of native wine may sell native wines to the
827 commission, authorized retail distributor, or directly to



828 consumers. No manufacturer or other person shall sell or attempt
829 to sell any wine or vinous liquor within the State of Mississippi
830 except to the holder of a wine distributor's permit as provided in
831 Section 67-1-41.

832 Any violation of this section by any manufacturer, rectifier,
833 or distiller shall be punished by a fine of not less than Five
834 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
835 (\$2,000.00), to which may be added imprisonment in the county jail
836 not to exceed six (6) months.

837 **SECTION 11.** Section 67-1-51, Mississippi Code of 1972, is
838 amended as follows:

839 67-1-51. (1) Permits which may be issued by the commission
840 shall be as follows:

841 (a) **Manufacturer's permit.** A manufacturer's permit
842 shall permit the manufacture, importation in bulk, bottling and
843 storage of alcoholic liquor and its distribution and sale to
844 manufacturers holding permits under this chapter in this state and
845 to persons outside the state who are authorized by law to purchase
846 the same, and to sell exclusively to the commission.

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

848 Class 1. Distiller's and/or rectifier's permit, which
849 shall authorize the holder thereof to operate a distillery for the
850 production of distilled spirits by distillation or redistillation
851 and/or to operate a rectifying plant for the purifying, refining,
852 mixing, blending, flavoring or reducing in proof of distilled
853 spirits and alcohol.

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

857 Class 3. Native wine producer's permit, which shall
858 authorize the holder thereof to produce, bottle, store and sell
859 native wines.



860 (b) **Package retailer's permit.** Except as otherwise
861 provided in this paragraph, a package retailer's permit shall
862 authorize the holder thereof to operate a store exclusively for
863 the sale at retail in original sealed and unopened packages of
864 alcoholic beverages, including native wines, not to be consumed on
865 the premises where sold. Alcoholic beverages shall not be sold by
866 any retailer in any package or container containing less than
867 fifty (50) milliliters by liquid measure. In addition to the sale
868 at retail of packages of alcoholic beverages, the holder of a
869 package retailer's permit is authorized to sell at retail
870 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
871 other beverages commonly used to mix with alcoholic beverages.
872 Nonalcoholic beverages sold by the holder of a package retailer's
873 permit shall not be consumed on the premises where sold.

874 (c) **On-premises retailer's permit.** An on-premises
875 retailer's permit shall authorize the sale of alcoholic beverages,
876 including native wines, for consumption on the licensed premises
877 only. Such a permit shall issue only to qualified hotels,
878 restaurants and clubs, and to common carriers with adequate
879 facilities for serving passengers. In resort areas, whether
880 inside or outside of a municipality, the commission may, in its
881 discretion, issue on-premises retailer's permits to such
882 establishments as it deems proper. An on-premises retailer's
883 permit when issued to a common carrier shall authorize the sale
884 and serving of alcoholic beverages aboard any licensed vehicle
885 while moving through any county of the state; however, the sale of
886 such alcoholic beverages shall not be permitted while such vehicle
887 is stopped in a county that has not legalized such sales.

888 (d) **Solicitor's permit.** A solicitor's permit shall
889 authorize the holder thereof to act as salesman for a manufacturer
890 or wholesaler holding a proper permit, to solicit on behalf of his
891 employer orders for alcoholic beverages, and to otherwise promote
892 his employer's products in a legitimate manner. Such a permit



893 shall authorize the representation of and employment by one (1)
894 principal only. However, the permittee may also, in the
895 discretion of the commission, be issued additional permits to
896 represent other principals. No such permittee shall buy or sell
897 alcoholic beverages for his own account, and no such beverage
898 shall be brought into this state in pursuance of the exercise of
899 such permit otherwise than through a permit issued to a wholesaler
900 or manufacturer in the state.

901 (e) **Native wine retailer's permit.** A native wine
902 retailer's permit shall be issued only to a holder of a Class 3
903 manufacturer's permit, and shall authorize the holder thereof to
904 make retail sales of native wines to consumers for on-premises
905 consumption or to consumers in originally sealed and unopened
906 containers at an establishment located on the premises of or in
907 the immediate vicinity of a native winery.

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

912 Temporary retailer's permits shall be of the following
913 classes:

914 Class 1. A temporary one-day permit may be issued to bona
915 fide nonprofit civic or charitable organizations authorizing the
916 sale of alcoholic beverages, including native wine, for
917 consumption on the premises described in the temporary permit
918 only. Class 1 permits may be issued only to applicants
919 demonstrating to the commission, by affidavit submitted ten (10)
920 days prior to the proposed date or such other time as the
921 commission may determine, that they meet the qualifications of
922 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
923 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
924 obtain all alcoholic beverages from package retailers located in
925 the county in which the temporary permit is issued. Alcoholic



926 beverages remaining in stock upon expiration of the temporary
927 permit may be returned by the permittee to the package retailer
928 for a refund of the purchase price upon consent of the package
929 retailer or may be kept by the permittee exclusively for personal
930 use and consumption, subject to all laws pertaining to the illegal
931 sale and possession of alcoholic beverages. The commission,
932 following review of the affidavit and the requirements of the
933 applicable statutes and regulations, may issue the permit.

934 Class 2. A temporary permit, not to exceed seventy (70)
935 days, may be issued to prospective permittees seeking to transfer
936 a permit authorized in either paragraph (b) or (c) of this
937 section. A Class 2 permit may be issued only to applicants
938 demonstrating to the commission, by affidavit, that they meet the
939 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
940 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
941 commission, following a preliminary review of the affidavit and
942 the requirements of the applicable statutes and regulations, may
943 issue the permit.

944 Class 2 temporary permittees must purchase their alcoholic
945 beverages directly from the commission or, with approval of the
946 commission, purchase the remaining stock of the previous
947 permittee. If the proposed applicant of a Class 1 or Class 2
948 temporary permit falsifies information contained in the
949 application or affidavit, the applicant shall never again be
950 eligible for a retail alcohol beverage permit and shall be subject
951 to prosecution for perjury.

952 (g) **Caterer's permit.** A caterer's permit shall permit
953 the purchase of alcoholic beverages by a person engaging in
954 business as a caterer and the resale of alcoholic beverages by
955 such person in conjunction with such catering business. No person
956 shall qualify as a caterer unless forty percent (40%) or more of
957 the revenue derived from such catering business shall be from the
958 serving of prepared food and not from the sale of alcoholic



959 beverages and unless such person has obtained a permit for such
960 business from the Department of Health. A caterer's permit shall
961 not authorize the sale of alcoholic beverages on the premises of
962 the person engaging in business as a caterer; however, the holder
963 of an on-premises retailer's permit may hold a caterer's permit.
964 All sales of alcoholic beverages by holders of a caterer's permit
965 shall be made at the location being catered by the caterer, and
966 such sales may be made only for consumption at the catered
967 location. Such sales shall be made pursuant to any other
968 conditions and restrictions which apply to sales made by
969 on-premises retail permittees. The holder of a caterer's permit
970 or his employees shall remain at the catered location as long as
971 alcoholic beverages are being sold pursuant to the permit issued
972 under this paragraph (g), and the permittee and employees at such
973 location shall each have personal identification cards issued by
974 the Alcoholic Beverage Control Division of the commission. No
975 unsold alcoholic beverages may be left at the catered location by
976 the permittee upon the conclusion of his business at that
977 location. Appropriate law enforcement officers and Alcoholic
978 Beverage Control Division personnel may enter a catered location
979 on private property in order to enforce laws governing the sale or
980 serving of alcoholic beverages.

981 (h) **Research Permit.** A research permit shall authorize
982 the holder thereof to operate a research facility for the
983 professional research of alcoholic beverages. Such permit shall
984 authorize the holder of the permit to import and purchase limited
985 amounts of alcoholic beverages from the commission or from
986 importers, wineries and distillers of alcoholic beverages for
987 professional research.

988 (i) **Alcohol processing permit.** An alcohol processing
989 permit shall authorize the holder thereof to purchase, transport
990 and possess alcoholic beverages for the exclusive use in cooking,
991 processing or manufacturing products which contain alcoholic



992 beverages as an integral ingredient. An alcohol processing permit
993 shall not authorize the sale of alcoholic beverages on the
994 premises of the person engaging in the business of cooking,
995 processing or manufacturing products which contain alcoholic
996 beverages. The amounts of alcoholic beverages allowed under an
997 alcohol processing permit shall be set by the commission.

998 (j) Wine distributor's permit. A wine distributor's
999 permit shall authorize the holder thereof to purchase for resale,
1000 to store and to distribute to authorized permittees, wine or
1001 vinous liquor. Such permit shall entitle the holder thereof to
1002 purchase wine or vinous liquor from any manufacturer or importer
1003 for the purpose of resale in this state to permittees that are
1004 authorized to sell wine or vinous liquor at retail. The holder of
1005 a wine distributor's permit may transport wine or vinous liquor
1006 into the State of Mississippi and store such wine or vinous liquor
1007 in a private bonded warehouse of such permittee's choice for sale
1008 to permittees who are authorized to sell wine or vinous liquor at
1009 retail. The holder of a wine distributor's permit may solicit
1010 orders for wine or vinous liquor from any permittee that is
1011 authorized to sell wine or vinous liquor at retail. Records of
1012 such orders shall be kept and maintained for a period of three (3)
1013 years after the order is taken and shall be subject to inspection
1014 by the division at any time without prior notice. The holder of a
1015 wine distributor's permit shall deliver wine or vinous liquor to
1016 an authorized permittee within three (3) days of receipt of the
1017 order.

1018 (2) Except as otherwise provided in subsection (4) of this
1019 section, retail permittees may hold more than one (1) retail
1020 permit, at the discretion of the commission.

1021 (3) Except as otherwise provided in this subsection, no
1022 authority shall be granted to any person to manufacture, sell or
1023 store for sale any intoxicating liquor as specified in this
1024 chapter within four hundred (400) feet of any church, school,



1025 kindergarten or funeral home. However, within an area zoned
1026 commercial or business, such minimum distance shall be not less
1027 than one hundred (100) feet.

1028 A church or funeral home may waive the distance restrictions
1029 imposed in this subsection in favor of allowing issuance by the
1030 commission of a permit, pursuant to subsection (1) of this
1031 section, to authorize activity relating to the manufacturing, sale
1032 or storage of alcoholic beverages which would otherwise be
1033 prohibited under the minimum distance criterion. Such waiver
1034 shall be in written form from the owner, the governing body, or
1035 the appropriate officer of the church or funeral home having the
1036 authority to execute such a waiver, and the waiver shall be filed
1037 with and verified by the commission before becoming effective.

1038 The distance restrictions imposed in this subsection shall
1039 not apply to the sale or storage of alcoholic beverages at a bed
1040 and breakfast inn listed in the National Register of Historic
1041 Places.

1042 (4) No person, either individually or as a member of a firm,
1043 partnership or association, or as a stockholder, officer or
1044 director in a corporation, shall own or control any interest in
1045 more than one (1) package retailer's permit, nor shall such
1046 person's spouse, if living in the same household of such person,
1047 any relative of such person, if living in the same household of
1048 such person, or any other person living in the same household with
1049 such person own any interest in any other package retailer's
1050 permit.

1051 **SECTION 12.** Section 67-1-77, Mississippi Code of 1972, is
1052 amended as follows:

1053 67-1-77. (1) It shall be unlawful for the holder of a
1054 manufacturer's or wholesaler's permit, or anyone connected with
1055 the business of such holder, or for any other distiller, wine
1056 manufacturer, wine distributor, brewer, rectifier, blender, or
1057 bottler, to have any financial interest in any premises upon which



1058 any alcoholic beverage is sold at retail by any permittee, or in
1059 the business conducted by such permittee; provided, however, the
1060 holder of a manufacturer's or wholesaler's permit may contract for
1061 the service of a representative in the area of governmental
1062 affairs on a part-time basis with a holder of an on-premises
1063 permit.

1064 (2) It shall also be unlawful for any such person, or anyone
1065 connected with his, its, or their business to lend any money or
1066 make any gift or offer any gratuity, to any retail permittee,
1067 except as authorized by regulations of the commission, to the
1068 holder of any retail permit issued under the provisions of this
1069 chapter. Except as above provided, no retail permittee shall
1070 accept, receive, or make use of any money or gift furnished by any
1071 such person, or become indebted to such person except for the
1072 purchase of alcoholic beverages.

1073 (3) The commission shall not prohibit the furnishing of
1074 advertising specialties, printed materials, or other things having
1075 nominal value to a retail permittee. This section shall not be
1076 construed to prohibit the possession by any person of advertising
1077 specialties, printed materials, or other things having nominal
1078 value furnished by a retail permittee.

1079 (4) Any person violating the provisions of this section
1080 shall, upon conviction, be punished by a fine of not more than
1081 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1082 than two (2) years, or by both such fine and imprisonment, in the
1083 discretion of the court.

1084 **SECTION 13.** This act shall take effect and be in force from
1085 and after July 1, 2003.

