SENATE BILL NO. 2548

AN ACT TO AUTHORIZE THE HOLDERS OF PACKAGE RETAILER'S PERMITS AND ON-PREMISES RETAILER'S PERMITS TO PURCHASE ALCOHOLIC BEVERAGES FROM THE HOLDERS OF LIMITED DISTRIBUTION PERMITS ISSUED BY THE STATE TAX COMMISSION IF THE BRAND OR TYPE OF ALCOHOLIC BEVERAGE SOUGHT TO BE PURCHASED BY SUCH A PERMITTEE IS NORMALLY IN THE INVENTORY KEPT BY THE COMMISSION BUT IS OUT OF STOCK, OR IS AN ITEM THAT THE COMMISSION DOES NOT NORMALLY KEEP IN ITS INVENTORY; TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-43, 67-1-45, 67-1-51 AND 67-1-77, MISSISSIPPI CODE OF 1972, TO CREATE A LIMITED DISTRIBUTOR'S PERMIT AND PROVIDE THE FEE FOR SUCH PERMIT; TO PROVIDE FOR THE COLLECTION OF TAXES BY THE HOLDER OF SUCH A PERMIT ON ALCOHOLIC BEVERAGES HE SELLS; TO AUTHORIZE THE TRANSPORT OF ALCOHOLIC BEVERAGES BY THE HOLDER OF A LIMITED DISTRIBUTOR'S PERMIT; TO AUTHORIZE THE STORAGE OF ALCOHOLIC BEVERAGES IN THIS STATE BY HOLDERS OF LIMITED DISTRIBUTOR'S PERMITS; TO AUTHORIZE THE STATE TAX COMMISSION TO ADOPT RULES AND REGULATIONS REGARDING THE LIMITED DISTRIBUTION OF ALCOHOLIC BEVERAGES; AND FOR RELATED PURPOSES.

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

SECTION 1. If an alcoholic beverage product that the holder of a package retailer's or on-premises retailer's permit is seeking to purchase is not available from the State Tax Commission at wholesale, such permittee may purchase such product from a wholesaler or distributor who has a limited distributor's permit from the State Tax Commission that authorizes such wholesaler or distributor to sell alcoholic beverage products directly to such permittees if the products are not available from the State Tax Commission. For purposes of this section, an alcoholic beverage product is not considered to be available from the State Tax Commission only if:

(a) The brand or type of alcoholic beverage sought is an item that the commission normally keeps in its inventory but is out of stock at the time the order is made; or
(b) The brand or type of alcoholic beverage sought is an item that the commission does not normally keep in its inventory.

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

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

(a) Manufacturer's permit, Class 1, distiller's and/or rectifier's............................................. $4,500.00
(b) Manufacturer's permit, Class 2, wine manufacturer
........................................................ $1,800.00
(c) Manufacturer's permit, Class 3, native wine manufacturer per 10,000 gallons or part thereof produced $ 10.00
(d) Native wine retailer's permit.......................... $ 50.00
(e) Package retailer's permit, each.............. $ 900.00
(f) On-premises retailer's permit, except for clubs and common carriers, each........................ $ 450.00
On purchases exceeding $5,000.00 and for each additional
$5,000.00, or fraction thereof......................... $ 225.00
(g) On-premises retailer's permit for wine of more than four percent (4%) alcohol by volume, but not more than twenty-one percent (21%) alcohol by volume (each)............... $ 225.00
On purchases exceeding $5,000.00 and for each additional
$5,000.00, or fraction thereof......................... $ 225.00
(h) On-premises retailer's permit for clubs.. $ 225.00
On purchases exceeding $5,000.00 and for each additional
$5,000.00, or fraction thereof......................... $ 225.00
(i) On-premises retailer's permit for common carriers, per car, plane, or other vehicle....................... $ 120.00
(j) Solicitor's permit, regardless of any other provision of law, solicitor's permits shall be issued only in the discretion of the commission......................... $ 100.00

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

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

(m) Temporary permit, Class 2, each........... $ 50.00

On-premises purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof............... $ 225.00

(n) (i) Caterer's permit.......................... $ 600.00

On purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof.......................... $ 250.00

(ii) Caterer's permit for holders of on-premises retailer's permit....................................... $ 150.00

On purchases exceeding $5,000.00 and for each additional $5,000.00, or fraction thereof.......................... $ 250.00

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

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

(q) Limited distributor's permit..............$1,800.00

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

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

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

(2) There is imposed and shall be collected from each permittee, except a common carrier, solicitor, holder of an employee identification card or a temporary permittee, by the commission, an additional license tax equal to the amounts imposed under subsection (1) of this section for the privilege of doing business within any municipality or county in which the licensee is located. If the licensee is located within a municipality, the commission shall pay the amount of additional license tax to the municipality, and if outside a municipality the commission shall pay the additional license tax to the county in which the licensee is located. Payments by the commission to the respective local government subdivisions shall be made once each month for any collections during the preceding month.

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

(4) The number of permits issued by the commission shall not be restricted or limited on a population basis; however, the foregoing limitation shall not be construed to preclude the right of the commission to refuse to issue a permit because of the undesirability of the proposed location.
(5) If any person shall engage or continue in any business which is taxable hereunder without having paid the tax as provided herein, such person shall be liable for the full amount of such tax plus a penalty thereon equal to the amount thereof, and, in addition, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a term of not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

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

SECTION 3. Section 27-71-7, Mississippi Code of 1972, is amended as follows:

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

(a) Distilled spirits.................... $2.50 per gallon
(b) Sparkling wine and champagne...... $1.00 per gallon
(c) Other wines, including native wines.......................... $ .35 per gallon

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

(b) Until June 30, 1987, the revenue derived from this three percent (3%) markup shall be deposited by the division in the State Treasury to the credit of the "Alcoholism Treatment and Rehabilitation Fund," a special fund which is hereby created in the State Treasury, and shall be used by the Division of Alcohol and Drug Abuse of the State Department of Mental Health and public or private centers or organizations solely for funding of treatment and rehabilitation programs for alcoholics and alcohol abusers which are sponsored by the division or public or private centers or organizations in such amounts as the Legislature may appropriate to the division for use by the division or public or private centers or organizations for such programs. Any tax revenue in the fund which is not encumbered at the end of the fiscal year shall lapse to the General Fund. It is the intent of the Legislature that the State Department of Mental Health shall continue to seek funds from other sources and shall use the funds appropriated for the purposes of this section and Section 27-71-29 to match all federal funds which may be available for alcoholism treatment and rehabilitation.

From and after July 1, 1987, the revenue derived from this three percent (3%) markup collected by the division and the revenue remitted to the State Tax Commission pursuant to subsection (3) of this section shall be deposited by the division in the State Treasury to the credit of the "Mental Health Programs Fund," a special fund which is hereby created in the State Treasury and shall be used by the State Department of Mental Health for the service programs of the department. Any revenue in the "Alcoholism Treatment and Rehabilitation Fund" which is not encumbered at the end of Fiscal Year 1987 shall be deposited to the credit of the "Mental Health Programs Fund."
(3) The tax and markup provided for in subsections (1) and (2) of this section shall be collected by the holder of a limited distributor’s permit on alcoholic beverages such permittee sells and the proceeds of the tax that such permittee collects shall be remitted to the State Tax Commission on or before the fifteenth day of the month following the month in which the tax and markup were collected.

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

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

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

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

27-71-21. Before any person shall engage in the business of manufacturing, distributing or retailing of alcoholic beverages, he may be required to enter into a bond payable to the State of
Mississippi, conditioned that he will conduct said business strictly in accordance with the laws of the State of Mississippi, and that he will comply with the rules and regulations prescribed by the commission, and pay all taxes due the State of Mississippi.

The amount of a bond required of a manufacturer or distributor, not including a producer of native wine, shall not exceed One Hundred Thousand Dollars ($100,000.00), and the amount required of a retailer shall be Five Thousand Dollars ($5,000.00). Provided, however, any retailer whose check for purchase of merchandise or payment of taxes shall be dishonored may be required by the commission to post additional bond not to exceed Five Thousand Dollars ($5,000.00). Such bond shall be made in a surety company authorized to do business in the State of Mississippi and shall be approved by the commission. The commission shall be authorized to institute suit in the proper court for any violation of the condition of said bonds. The amount of the bond required of a producer of native wine shall be Five Thousand Dollars ($5,000.00).

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

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

67-1-5. For the purposes of this chapter and unless otherwise required by the context:
(a) "Alcoholic beverage" mean any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include wine containing five percent (5%) or less of alcohol by weight and shall not include beer containing not more than five percent (5%) of alcohol by weight, as provided for in Section 67-3-5, Mississippi Code of 1972, but shall include native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes.

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

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

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

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

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

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

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

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

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

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

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

(m) "Restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has suitable seating facilities for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals.
commonly ordered at various hours of the day; the service of such
food as sandwiches and salads only shall not be deemed in
compliance with this requirement. No place shall qualify as a
restaurant under this chapter unless twenty-five percent (25%) or
more of the revenue derived from such place shall be from the
preparation, cooking and serving of meals and not from the sale of
beverages, or unless the value of food given to and consumed by
customers is equal to twenty-five percent (25%) or more of total
revenue.

(n) * * * "Club" means an association or a corporation:
(i) Organized or created under the laws of this
state for a period of five (5) years prior to July 1, 1966;
(ii) Organized not primarily for pecuniary profit
but for the promotion of some common object other than the sale or
consumption of alcoholic beverages;
(iii) Maintained by its members through the
payment of annual dues;
(iv) Owning, hiring or leasing a building or space
in a building of such extent and character as may be suitable and
adequate for the reasonable and comfortable use and accommodation
of its members and their guests;
(v) The affairs and management of which are
conducted by a board of directors, board of governors, executive
committee, or similar governing body chosen by the members at a
regular meeting held at some periodic interval; and
(vi) No member, officer, agent or employee of
which is paid, or directly or indirectly receives, in the form of
a salary or other compensation any profit from the distribution or
sale of alcoholic beverages to the club or to members or guests of
the club beyond such salary or compensation as may be fixed and
voted at a proper meeting by the board of directors or other
governing body out of the general revenues of the club.
The commission may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the commission, at the time of its application for a license under this chapter, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the commission at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

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

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

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

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

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

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

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitually furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms
shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Limited distributor" means a person who is authorized to distribute alcoholic beverages pursuant to Section 1 of Senate Bill No. 2548, 2003 Regular Session.

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

67-1-9. (1) 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 alcoholic beverages from storing such alcoholic beverages 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, and nothing contained herein shall prohibit the holder of a limited distributor's permit from storing alcoholic beverages in Mississippi for resale as authorized in Section 1 of Senate Bill No. 2548, 2003 Regular Session. The commission is hereby authorized to promulgate rules and regulations for the establishment of such private bonded warehouses and for the control of alcoholic beverages 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
institutions. 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.

(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,
nor 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 8. Section 67-1-37, Mississippi Code of 1972, is
amended as follows:

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

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

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

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

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

(e) To issue rules regulating the advertising of alcoholic beverages in the state in any class of media and permitting advertising of the retail price of alcoholic beverages.
(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcoholic beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcoholic beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

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

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

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

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

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

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

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

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

(o) To assign employees to posts of duty at locations
where they will be most beneficial for the control of alcoholic
beverages, to remove, to dismiss, to suspend without pay, to act
as a trial board in hearings based upon charges against employees.

After twelve (12) months' service, no employee shall be removed,
dismissed, demoted or suspended without just cause and only after
being furnished with reasons for such removal, dismissal, demotion
or suspension, and upon request given a hearing in his own
defense.

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

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

(r) To adopt rules and regulations governing the
limited distribution of alcoholic beverages pursuant to Section 1,

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

67-1-41. (1) Except as otherwise provided in Section 1 of
Senate Bill No. 2548, 2003 Regular Session, the State Tax
Commission is hereby created a wholesale distributor and seller of
alcoholic beverages, not including malt liquors, within the State
of Mississippi. Except as otherwise provided in Section 1 of
Senate Bill No. 2548, 2003 Regular Session, it is granted the sole
right to import and sell such intoxicating liquors at wholesale
within the state, and no person who is granted the right to sell,
distribute or receive such liquors at retail shall purchase any
such intoxicating liquors from any source other than the
commission except as authorized in subsections (4) and (9) of this
section and Section 1 of Senate Bill No. 2548, 2003 Regular
Session, provided that retailers and consumers may purchase native
wines directly from the producer. The commission may establish
warehouses, purchase intoxicating liquors in such quantities and
from such sources as it may deem desirable and sell the same to
authorized permittees within the state including, at the
discretion of the commission, any retail distributors operating
within any military post or qualified resort areas within the
boundaries of the state, keeping a correct and accurate record of
all such transactions and exercising such control over the
distribution of alcoholic beverages as seem right and proper in
keeping with the provisions or purposes of this chapter.

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

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

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

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

(4) The commission may promulgate rules and regulations
which authorize on-premises retailers to purchase limited amounts
of alcoholic beverages from package retailers and for package
retailers to purchase limited amounts of alcoholic beverages from
other package retailers. The commission shall develop and provide
forms to be completed by the on-premises retailers and the package
retailers verifying the transaction. The completed forms shall be
forwarded to the commission within a period of time prescribed by
the commission.
(5) The commission may promulgate rules which authorize the holder of a package retailer's permit to permit individual retail purchasers of packages of alcoholic beverages to return, for exchange, credit or refund, limited amounts of original sealed and unopened packages of alcoholic beverages purchased by such individual from the package retailer.

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

(7) The commission may promulgate rules which authorize the manufacturer of an alcoholic beverage or wine to import, transport and furnish or give a sample of alcoholic beverages or wines to the holders of package retailer's permits, on-premises retailer's permits, native wine retailer's permits and temporary retailer's permits who have not previously purchased the brand of that manufacturer from the commission. For each holder of the designated permits, the manufacturer may furnish not more than five hundred (500) milliliters of any brand of alcoholic beverage and not more than three (3) liters of any brand of wine.

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

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

SECTION 10. Section 67-1-43, Mississippi Code of 1972, is
amended as follows:

67-1-43. Any authorized retail distributor who shall
purchase or receive intoxicating liquor from any source except
from the commission or the holder of a limited distributor's
permit, unless authorized by rules and regulations of the
commission promulgated under subsection (4) of Section 67-1-41,
shall be guilty of a misdemeanor and upon conviction thereof shall
be punished by a fine of not less than Five Hundred Dollars
($500.00), nor more than Two Thousand Dollars ($2,000.00), to
which may be added imprisonment in the county jail for not more
than six (6) months. Any authorization of such person to sell
intoxicating beverages may be revoked as provided by law.

This section shall not apply to any authorized retail
distributor who shall purchase native wines directly from the
producer.

SECTION 11. Section 67-1-45, Mississippi Code of 1972, is
amended as follows:

67-1-45. Except as otherwise authorized in Section 1 of
Senate Bill No. 2548, 2003 Regular Session, no manufacturer,
rectifier, or distiller of intoxicating liquor shall sell or
attempt to sell any such intoxicating liquor, except malt liquor,
within the State of Mississippi, except to the commission, or to
the holder of a research permit as provided in Section 67-1-41.
However, a producer of native wine may sell native wines to the
commission, authorized retail distributor, or directly to
consumers.
Any violation of this section by any manufacturer, rectifier, or distiller shall be punished by a fine of not less than Five Hundred Dollars ($500.00), and not more than Two Thousand Dollars ($2,000.00), to which may be added imprisonment in the county jail not to exceed six (6) months.

SECTION 12. Section 67-1-51, Mississippi Code of 1972, is amended as follows:

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

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

Manufacturer's permits shall be of the following classes:

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

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

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

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

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

(d) **Solicitor's permit.** A solicitor's permit shall
authorize the holder thereof to act as salesman for a manufacturer
or wholesaler holding a proper permit, to solicit on behalf of his
employer orders for alcoholic beverages, and to otherwise promote
his employer's products in a legitimate manner. Such a permit
shall authorize the representation of and employment by one (1)
principal only. However, the permittee may also, in the
discretion of the commission, be issued additional permits to
represent other principals. No such permittee shall buy or sell
alcoholic beverages for his own account, and no such beverage
shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

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

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

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

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the commission, by affidavit submitted ten (10) days prior to the proposed date or such other time as the commission may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal
sale and possession of alcoholic beverages. The commission,
following review of the affidavit and the requirements of the
applicable statutes and regulations, may issue the permit.

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

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

(g) Caterer's permit. A caterer's permit shall permit
the purchase of alcoholic beverages by a person engaging in
business as a caterer and the resale of alcoholic beverages by
such person in conjunction with such catering business. No person
shall qualify as a caterer unless forty percent (40%) or more of
the revenue derived from such catering business shall be from the
serving of prepared food and not from the sale of alcoholic
beverages and unless such person has obtained a permit for such
business from the Department of Health. A caterer's permit shall
not authorize the sale of alcoholic beverages on the premises of
the person engaging in business as a caterer; however, the holder
of an on-premises retailer's permit may hold a caterer's permit.
All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and such sales may be made only for consumption at the catered location. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee and employees at such location shall each have personal identification cards issued by the Alcoholic Beverage Control Division of the commission. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

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

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

(j) Limited distributor's permit. A limited distributor's permit shall authorize the holder thereof to purchase for resale, to store, to transport and to distribute alcoholic beverages for the limited purposes authorized in Section 1 of Senate Bill No. 2548, 2003 Regular Session. Records of any order taken by the holder of a limited distributor's permit shall be kept and maintained for a period of three (3) years after the order is taken and shall be subject to inspection by the division at any time without prior notice.

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

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

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

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

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

SECTION 13. Section 67-1-77, Mississippi Code of 1972, is amended as follows:

67-1-77. (1) It shall be unlawful for the holder of a manufacturer's, limited distributor's or wholesaler's permit, or anyone connected with the business of such holder, or for any other distiller, wine manufacturer, brewer, rectifier, blender, or bottler, to have any financial interest in any premises upon which any alcoholic beverage is sold at retail by any permittee, or in the business conducted by such permittee; provided, however, the holder of a manufacturer's or wholesaler's permit may contract for the service of a representative in the area of governmental affairs on a part-time basis with a holder of an on-premises permit.

(2) It shall also be unlawful for any such person, or anyone connected with his, its, or their business to lend any money or make any gift or offer any gratuity, to any retail permittee, except as authorized by regulations of the commission, to the holder of any retail permit issued under the provisions of this chapter. Except as above provided, no retail permittee shall accept, receive, or make use of any money or gift furnished by any such person, or become indebted to such person except for the purchase of alcoholic beverages.
ST: Alcoholic beverage; allow holder of package/on-premises retailer's permits to purchase from dist., if unavailable from STC.

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

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

SECTION 14. This act shall take effect and be in force from and after July 1, 2003.