

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 194

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

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

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

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

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

34 (c) If the identical type and brand of wine shipped is
35 sold at retail in this state at the time the shipment is made.

36 (2) A wholesaler, retailer or producer of wine who desires
37 to ship wine pursuant to subsection (1) of this section shall
38 register with the State Tax Commission and pay a registration fee
39 of One Hundred Dollars (\$100.00) and thereafter shall annually pay
40 a fee of Fifty Dollars (\$50.00) before making any shipment
41 pursuant to this section. Each shipment shall be accompanied by
42 an invoice detailing the transaction.

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

51 (4) It shall be unlawful for any wholesaler, retailer or
52 producer of wine domiciled outside the State of Mississippi to:

53 (a) Ship more than twenty-four (24) bottles of wine,
54 which bottles may not exceed seven hundred fifty (750) milliliters
55 each, directly to any household in one (1) month;

56 (b) Ship wine to a person who is less than twenty-one
57 (21) years of age;

58 (c) Ship wine to a county that has not voted to come
59 out from under the dry law; or

60 (d) Ship wine if the identical type and brand of wine
61 shipped is sold at retail in this state at the time the shipment
62 is made.

63 (5) A wholesaler, retailer or producer who violates the
64 provisions of this section shall, in addition to any other penalty
65 prescribed by law, be punished as follows:

66 (a) A first violation of this section shall be
67 punishable by a penalty to be imposed by the State Tax Commission
68 of not more than Five Thousand Dollars (\$5,000.00).

69 (b) A second violation of this section shall constitute
70 a felony and upon conviction shall be punishable by a fine of not
71 more than Twenty-five Thousand Dollars (\$25,000.00) or by
72 imprisonment in the State Penitentiary not less than one (1) year
73 nor more than five (5) years, or both fine and imprisonment.

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

76 67-1-9. (1) (a) Except as otherwise provided in paragraph
77 (b) of this subsection, it shall be unlawful for any person to
78 manufacture, distill, brew, sell, possess, import into this state,
79 export from the state, transport, distribute, warehouse, store,
80 solicit, take order for, bottle, rectify, blend, treat, mix or
81 process any alcoholic beverage except as authorized in this
82 chapter. However, nothing contained herein shall prevent
83 importers, wineries and distillers of alcoholic beverages from
84 storing such alcoholic beverages in private bonded warehouses
85 located within the State of Mississippi for the ultimate use and
86 benefit of the State Tax Commission as provided in Section
87 67-1-41. The commission is hereby authorized to promulgate rules
88 and regulations for the establishment of such private bonded
89 warehouses and for the control of alcoholic beverages stored in
90 such warehouses. Additionally, nothing herein contained shall
91 prevent any duly licensed practicing physician or dentist from
92 possessing or using alcoholic liquor in the strict practice of his
93 profession, or prevent any hospital or other institution caring
94 for sick and diseased persons, from possessing and using alcoholic
95 liquor for the treatment of bona fide patients of such hospital or
96 other institution. Any drugstore employing a licensed pharmacist
97 may possess and use alcoholic liquors in the combination of
98 prescriptions of duly licensed physicians. The possession and
99 dispensation of wine by an authorized representative of any church
100 for the purpose of conducting any bona fide rite or religious

101 ceremony conducted by such church shall not be prohibited by this
102 chapter.

103 (b) It shall not be unlawful for any person to import
104 or transport wine pursuant to Section 1 of House Bill No. _____,
105 2004 Regular Session. It shall not be unlawful for any person to
106 possess wine shipped pursuant to Section 1 of House Bill No. _____,
107 2004 Regular Session, in any county in this state that has voted
108 to come out from under the dry law, provided that the person
109 purchased the wine for his or her personal use only.

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

112 (a) By a fine of not less than One Hundred Dollars
113 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
114 imprisonment in the county jail not less than one (1) week nor
115 more than three (3) months, or both, for the first conviction
116 under this section.

117 (b) By a fine of not less than One Hundred Dollars
118 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
119 imprisonment in the county jail not less than sixty (60) days, nor
120 more than six (6) months, or both fine and imprisonment, for the
121 second conviction for violating this section.

122 (c) By a fine of not less than One Hundred Dollars
123 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
124 imprisonment in the State Penitentiary not less than one (1) year,
125 nor more than five (5) years, or both fine and imprisonment, for
126 conviction the third time under this section for the violation
127 thereof after having been twice convicted of its violation.

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

130 97-31-47. It shall be unlawful for any transportation
131 company, or any agent, employee, or officer of such company, or
132 any other person, or corporation to transport into or deliver in
133 this state in any manner or by any means any spirituous, vinous,

134 malt, or other intoxicating liquors or drinks, or for any such
135 person, company, or corporation to transport any spirituous, malt,
136 vinous, or intoxicating liquors or drinks from one place within
137 this state to another place within the state, or from one point
138 within this state to any point without the state, except in cases
139 where this chapter, Section 1 of House Bill No. _____, 2004 Regular
140 Session, Section 67-1-9 or Section 67-9-1 authorizes the
141 transportation.

142 **SECTION 4.** Section 1 of this act shall be codified as a
143 separate code section in Chapter 1, Title 67, Mississippi Code of
144 1972.

145 **SECTION 5.** This act shall take effect and be in force from
146 and after July 1, 2004.