

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 296

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, 2005, 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, 2005, 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, 2004.