

By: Representative Fillingane (By Request)

To: Ways and Means

HOUSE BILL NO. 738

1 AN ACT TO AMEND SECTIONS 67-1-57 AND 67-1-71, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT ON-PREMISES RETAILER'S ALCOHOL
3 PERMIT HOLDERS MUST HAVE LIQUOR LIABILITY INSURANCE PROVIDING
4 MINIMUM AMOUNTS OF COVERAGE AS REQUIRED BY THE STATE TAX
5 COMMISSION; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 67-1-57, Mississippi Code of 1972, is
8 amended as follows:

9 67-1-57. Before a permit is issued the commission shall
10 satisfy itself:

11 (a) That the applicant, if an individual, or if a
12 partnership, each of the members of the partnership, or if a
13 corporation, each of its principal officers and directors, is of
14 good moral character and, in addition, enjoys a reputation of
15 being a peaceable, law-abiding citizen of the community in which
16 he resides, and is generally fit for the trust to be reposed in
17 him, is not less than twenty-one (21) years of age, and has not
18 been convicted of a felony in any state or federal court.

19 (b) That, except in the case of an application for a
20 solicitor's permit, the applicant is the true and actual owner of
21 the business for which the permit is desired, and that he intends
22 to carry on the business authorized for himself and not as the
23 agent of any other person, and that he intends to superintend in
24 person the management of said business or that he will designate a
25 manager to manage the business for him; any such manager must be
26 approved by the commission and must possess all of the
27 qualifications required of a permittee.

28 (c) That the applicant for a package retailer's permit,
29 if an individual, is a resident of the State of Mississippi. If
30 the applicant is a partnership, each member of the partnership
31 must be a resident of the state. If the applicant is a
32 corporation, the designated manager of the corporation must be a
33 resident of the state.

34 (d) That the place for which the permit is to be issued
35 is an appropriate one considering the character of the premises
36 and the surrounding neighborhood.

37 (e) That the place for which the permit is to be issued
38 is within the corporate limits of an incorporated municipality or
39 qualified resort area or club which comes within the provisions of
40 this chapter.

41 (f) That the applicant is not indebted to the state for
42 any taxes, fees or payment of penalties imposed by any law of the
43 State of Mississippi or by any rule or regulation of the
44 commission.

45 (g) That the applicant is not in the habit of using
46 alcoholic beverages to excess and is not physically or mentally
47 incapacitated, and that the applicant has the ability to read and
48 write the English language.

49 (h) That the commission does not believe and has no
50 reason to believe that the applicant will sell or knowingly permit
51 any agent, servant or employee to unlawfully sell liquor in a dry
52 area or in any other manner contrary to law.

53 (i) That the applicant is not residentially domiciled
54 with any person whose permit or license has been cancelled for
55 cause within the twelve (12) months next preceding the date of the
56 present application for a permit.

57 (j) That the commission has not, in the exercise of its
58 discretion which is reserved and preserved to it, refused to grant
59 such permits under the restrictions of this section, as well as
60 under any other pertinent provision of this chapter.

61 (k) That there are not sufficient legal reasons to deny
62 a permit on the ground that the premises for which the permit is
63 sought has previously been operated, used or frequented for any
64 purpose or in any manner that is lewd, immoral or offensive to
65 public decency. In the granting or withholding of any permit to
66 sell alcoholic beverages at retail, the commission in forming its
67 conclusions may give consideration to any recommendations made in
68 writing by the district or county attorney or county, circuit or
69 chancery judge of the county, or the sheriff of the county, or the
70 mayor or chief of police of an incorporated city or town wherein
71 the applicant proposes to conduct his business and to any
72 recommendations made by representatives of the commission.

73 (1) That the applicant and the applicant's key
74 employees, as determined by the commission, do not have a
75 disqualifying criminal record. In order to obtain a criminal
76 record history check, the applicant shall submit to the commission
77 a set of fingerprints from any local law enforcement agency for
78 each person for whom the records check is required. The
79 commission shall forward the fingerprints to the Mississippi
80 Department of Public Safety. If no disqualifying record is
81 identified at the state level, the Department of Public Safety
82 shall forward the fingerprints to the Federal Bureau of
83 Investigation for a national criminal history record check. Costs
84 for processing the set or sets of fingerprints shall be borne by
85 the applicant. The commission shall not deny employment to an
86 employee of the applicant prior to the identification of a
87 disqualifying record or other disqualifying information.

88 (m) That the applicant for an on-premises retailer's
89 permit will obtain liquor liability insurance providing minimum
90 amounts of coverage as required by the commission.

91 **SECTION 2.** Section 67-1-71, Mississippi Code of 1972, is
92 amended as follows:

93 67-1-71. The commission may revoke or suspend any permit
94 issued by it for a violation by the permittee of any of the
95 provisions of this chapter or of the regulations promulgated under
96 it by the commission.

97 Permits must be revoked or suspended for the following
98 causes:

99 (a) Conviction of the permittee for the violation of
100 any of the provisions of this chapter;

101 (b) Willful failure or refusal by any permittee to
102 comply with any of the provisions of this chapter or of any rule
103 or regulation adopted pursuant thereto;

104 (c) The making of any materially false statement in any
105 application for a permit;

106 (d) Conviction of one or more of the clerks, agents or
107 employees of the permittee, of any violation of this chapter upon
108 the premises covered by such permit within a period of time as
109 designated by the rules or regulations of the commission;

110 (e) The possession on the premises of any retail
111 permittee of any alcoholic beverages upon which the tax has not
112 been paid;

113 (f) The willful failure of any permittee to keep the
114 records or make the reports required by this chapter, or to allow
115 an inspection of such records by any duly authorized person;

116 (g) The suspension or revocation of a permit issued to
117 the permittee by the federal government, or conviction of
118 violating any federal law relating to alcoholic beverages;

119 (h) The failure to furnish any bond required by this
120 chapter within fifteen (15) days after notice from the
121 commission; * * *

122 (i) The conducting of any form of illegal gambling on
123 the premises of any permittee or on any premises connected
124 therewith or the presence on any such premises of any gambling
125 device with the knowledge of the permittee; and

126 (j) The failure of an on-premises retailer's permittee
127 to obtain and maintain liquor liability insurance providing
128 minimum amounts of coverage as required by the commission.

129 The provisions of item (i) of this section shall not apply to
130 gambling or the presence of any gambling devices, with knowledge
131 of the permittee, on board a cruise vessel in the waters within
132 the State of Mississippi, which lie adjacent to the State of
133 Mississippi south of the three (3) most southern counties in the
134 State of Mississippi, or on any vessel as defined in Section
135 27-109-1 whenever such vessel is on the Mississippi River or
136 navigable waters within any county bordering on the Mississippi
137 River. The commission may, in its discretion, issue on-premises
138 retailer's permits to a common carrier of the nature described in
139 this paragraph.

140 No permit shall be revoked except after a hearing by the
141 commission with reasonable notice to the permittee and an
142 opportunity for him to appear and defend.

143 In addition to the causes specified in this section and other
144 provisions of this chapter, the commission shall be authorized to
145 suspend the permit of any permit holder for being out of
146 compliance with an order for support, as defined in Section
147 93-11-153. The procedure for suspension of a permit for being out
148 of compliance with an order for support, and the procedure for the
149 reissuance or reinstatement of a permit suspended for that
150 purpose, and the payment of any fees for the reissuance or
151 reinstatement of a permit suspended for that purpose, shall be
152 governed by Section 93-11-157 or 93-11-163, as the case may be.
153 If there is any conflict between any provision of Section
154 93-11-157 or 93-11-163 and any provision of this chapter, the
155 provisions of Section 93-11-157 or 93-11-163, as the case may be,
156 shall control.

157 **SECTION 3.** This act shall take effect and be in force from
158 and after July 1, 2004.