

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 1538

1 AN ACT TO REQUIRE THE STATE TAX COMMISSION TO ENTER INTO
2 CONTRACTS WITH PRIVATE ENTITIES FOR THE SALE, FRANCHISE, LICENSE
3 OR LEASE OF, AND THE SALE, FRANCHISING, LICENSING OR LEASING ALL
4 RIGHTS ASSOCIATED WITH, THE WHOLESALE DISTRIBUTION OF ALCOHOLIC
5 BEVERAGES IN THIS STATE; TO AUTHORIZE THE COMMISSION TO GRANT ONE
6 OR MORE EXCLUSIVE SERVICE TERRITORIES IN THE STATE IN WHICH A
7 PRIVATE SECTOR ENTITY HAS THE EXCLUSIVE RIGHTS TO THE WHOLESALE
8 DISTRIBUTION OF ALCOHOLIC BEVERAGES; TO PROVIDE THAT ANY CONTRACT
9 ENTERED INTO WITH A PRIVATE ENTITY FOR THE WHOLESALE DISTRIBUTION
10 OF ALCOHOLIC BEVERAGES SHALL PROVIDE FOR A NEGOTIATED ANNUAL
11 ROYALTY PAYMENT; TO PROVIDE THAT AMOUNTS PAID BY A PRIVATE ENTITY
12 FOR THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES AND ANNUAL
13 ROYALTY PAYMENTS SHALL BE DEPOSITED INTO THE STATE GENERAL FUND;
14 TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING
15 ON BEHALF OF THE STATE TAX COMMISSION, TO SELL ALL REAL PROPERTY
16 OWNED BY THE STATE AND UTILIZED BY THE STATE TAX COMMISSION IN
17 CONNECTION WITH THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES
18 BY THE COMMISSION; TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-9,
19 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-43,
20 67-1-45, 67-1-51, 67-1-77 AND 67-1-79, MISSISSIPPI CODE OF 1972,
21 TO AUTHORIZE THE DISTRIBUTION OF ALCOHOLIC BEVERAGES BY PRIVATE
22 ENTITIES; TO PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR AN
23 ALCOHOLIC BEVERAGE DISTRIBUTOR'S PERMIT; TO PROVIDE FOR AN EXCISE
24 TAX ON ALCOHOLIC BEVERAGES SOLD BY THE HOLDER OF AN ALCOHOLIC
25 BEVERAGE DISTRIBUTOR'S PERMIT AND THE COLLECTION OF SUCH TAX; TO
26 REQUIRE THE OPERATOR OF A VEHICLE TRANSPORTING ALCOHOLIC BEVERAGES
27 TO POSSESS AN INVOICE ISSUED BY THE HOLDER OF AN ALCOHOLIC
28 BEVERAGE DISTRIBUTOR'S PERMIT; TO PROVIDE THAT PERSONS ENGAGED IN
29 THE BUSINESS OF DISTRIBUTING ALCOHOLIC BEVERAGES MAY BE REQUIRED
30 TO ENTER INTO A BOND PAYABLE TO THE STATE OF MISSISSIPPI
31 CONDITIONED THAT SUCH DISTRIBUTOR WILL CONDUCT HIS BUSINESS
32 LAWFULLY; TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE
33 RULES AND REGULATIONS GOVERNING THE PURCHASE FOR RESALE,
34 DISTRIBUTION AND SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE THAT THE
35 STATE TAX COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR OF
36 ALCOHOLIC BEVERAGES; TO AUTHORIZE THE STATE TAX COMMISSION TO
37 ISSUE ALCOHOLIC BEVERAGE DISTRIBUTOR'S PERMITS; TO PROVIDE THAT
38 SUCH PERMITS SHALL AUTHORIZE THE HOLDER THEREOF TO PURCHASE
39 ALCOHOLIC BEVERAGES FROM ANY MANUFACTURER OR IMPORTER, TRANSPORT
40 ALCOHOLIC BEVERAGES INTO THE STATE OF MISSISSIPPI, STORE ALCOHOLIC
41 BEVERAGES AT THE PRIVATE BONDED WAREHOUSE OF SUCH PERMITTEE'S
42 CHOICE AND SOLICIT ORDERS FROM AND SELL ALCOHOLIC BEVERAGES TO
43 PERMITTEES WHO ARE AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT
44 RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE KEPT FOR THREE
45 YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE ALCOHOLIC BEVERAGE
46 CONTROL DIVISION AT ANY TIME; TO REQUIRE THE HOLDER OF AN
47 ALCOHOLIC BEVERAGE DISTRIBUTOR'S PERMIT TO DELIVER ALCOHOLIC
48 BEVERAGES WITHIN THREE DAYS OF RECEIPT OF THE ORDER; TO MAKE IT
49 UNLAWFUL FOR AN ALCOHOLIC BEVERAGE DISTRIBUTOR TO HAVE A FINANCIAL
50 INTEREST IN ANY PREMISES UPON WHICH ANY ALCOHOLIC BEVERAGE IS SOLD
51 AT RETAIL; TO REPEAL SECTIONS 27-71-11, 27-71-13, 27-71-17,
52 27-71-19, 67-1-47 AND 67-1-49, MISSISSIPPI CODE OF 1972, WHICH

53 AUTHORIZE THE STATE TAX COMMISSION TO REQUEST THE STATE BOND
54 COMMISSION TO PROVIDE SUFFICIENT FUNDS REQUIRED TO MAINTAIN AN
55 ADEQUATE ALCOHOLIC BEVERAGE INVENTORY, REQUIRE THE STATE TAX
56 COMMISSION TO PURCHASE DIRECTLY FROM THE MANUFACTURER, PROVIDE
57 PENALTIES FOR SELLING ALCOHOLIC BEVERAGES NOT IDENTIFIED AS HAVING
58 BEEN PURCHASED BY THE COMMISSION, REQUIRE DISTILLERS AND
59 DISTRIBUTORS DEALING WITH THE STATE TAX COMMISSION TO REGISTER
60 WITH THE SECRETARY OF STATE AND REQUIRE DISTILLERS HAVING
61 CONTRACTS WITH THE STATE TAX COMMISSION TO FILE STATEMENTS OF
62 SALARY EXPENSES; AND FOR RELATED PURPOSES.

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

64 **SECTION 1.** The Legislature finds that it is in the public
65 interest to seek efficiencies and cost savings from privatizing
66 the wholesale distribution of alcoholic beverages in this state.

67 **SECTION 2.** (1) The State Tax Commission shall enter into
68 contracts with private entities for the sale, franchise, license
69 or lease of, and may sell, franchise, license or lease all rights
70 associated with, the wholesale distribution of alcoholic beverages
71 in this state.

72 (2) The commission may grant one or more exclusive service
73 territories in the state in which a private sector entity has the
74 exclusive rights to the wholesale distribution of alcoholic
75 beverages.

76 (3) The commission shall adopt rules to effect the transfer
77 of the distribution of alcoholic beverages to private entities.
78 The rules shall include, but not be limited to:

79 (a) The method of transfer that promotes the maximum
80 efficiency and cost savings to the state while ensuring highest
81 possible revenue for the state;

82 (b) Procedures designed to encourage vigorous bidding
83 for alcoholic beverage wholesale distribution rights;

84 (c) Criteria for eligibility as a wholesale distributor
85 of alcoholic beverages.

86 (4) Any contract entered into with a private entity for the
87 wholesale distribution of alcoholic beverages shall provide for a
88 negotiated annual royalty payment.

89 (5) Amounts paid by a private entity for the wholesale
90 distribution of alcoholic beverages and annual royalty payments
91 shall be deposited into the State General Fund.

92 **SECTION 3.** (1) The Department of Finance and
93 Administration, acting on behalf of the State Tax Commission,
94 shall sell all real property owned by the state and utilized by
95 the State Tax Commission in connection with the wholesale
96 distribution of alcoholic beverages by the commission.

97 (2) The real property authorized to be sold by subsection
98 (1) of this section shall be sold for not less than the current
99 fair market value as determined by the averaging of at least two
100 (2) appraisals by qualified appraisers who shall be selected by
101 the Department of Finance and Administration and shall be
102 certified and licensed by the Mississippi Real Estate Appraiser
103 Licensing and Certification Board. However, if no bid is received
104 which is equal to the current market value after readvertising the
105 property, the property may be sold at auction to the highest
106 bidder.

107 (3) Any funds received by the state for the sale of real
108 property authorized to be sold by subsection (1) of this section
109 shall be deposited into the State General Fund.

110 **SECTION 4.** Section 27-71-5, Mississippi Code of 1972, is
111 amended as follows:

112 27-71-5. (1) Upon each person approved for a permit under
113 the provisions of the Alcoholic Beverage Control Law and
114 amendments thereto, there is levied and imposed for each location
115 for the privilege of engaging and continuing in this state in the
116 business authorized by such permit, an annual privilege license
117 tax in the amount provided in the following schedule:

- 118 (a) Manufacturer's permit, Class 1,
119 distiller's and/or rectifier's..... \$4,500.00
120 (b) Manufacturer's permit, Class 2, wine
121 manufacturer \$1,800.00

| | | |
|-----|--|-----------|
| 122 | (c) Manufacturer's permit, Class 3, native | |
| 123 | wine manufacturer per 10,000 gallons or part thereof | |
| 124 | produced..... | \$ 10.00 |
| 125 | (d) Native wine retailer's permit..... | \$ 50.00 |
| 126 | (e) Package retailer's permit, each..... | \$ 900.00 |
| 127 | (f) On-premises retailer's permit, except | |
| 128 | for clubs and common carriers, each..... | \$ 450.00 |
| 129 | On purchases exceeding \$5,000.00 and for each | |
| 130 | additional \$5,000.00, or fraction thereof..... | \$ 225.00 |
| 131 | (g) On-premises retailer's permit for wine | |
| 132 | of more than four percent (4%) alcohol by volume, but | |
| 133 | not more than twenty-one percent (21%) alcohol by | |
| 134 | volume (each)..... | \$ 225.00 |
| 135 | On purchases exceeding \$5,000.00 and for each | |
| 136 | additional \$5,000.00, or fraction thereof..... | \$ 225.00 |
| 137 | (h) On-premises retailer's permit for clubs.. | \$ 225.00 |
| 138 | On purchases exceeding \$5,000.00 and for each | |
| 139 | additional \$5,000.00, or fraction thereof..... | \$ 225.00 |
| 140 | (i) On-premises retailer's permit for | |
| 141 | common carriers, per car, plane, or other vehicle..... | \$ 120.00 |
| 142 | (j) Solicitor's permit, regardless of any | |
| 143 | other provision of law, solicitor's permits shall be | |
| 144 | issued only in the discretion of the commission..... | \$ 100.00 |
| 145 | (k) Filing fee for each application except | |
| 146 | for an employee identification card..... | \$ 25.00 |
| 147 | (l) Temporary permit, Class 1, each..... | \$ 10.00 |
| 148 | (m) Temporary permit, Class 2, each..... | \$ 50.00 |
| 149 | On-premises purchases exceeding \$5,000.00 and for | |
| 150 | each additional \$5,000.00, or fraction thereof..... | \$ 225.00 |
| 151 | (n) (i) Caterer's permit..... | \$ 600.00 |
| 152 | On purchases exceeding \$5,000.00 and for each | |
| 153 | additional \$5,000.00, or fraction thereof..... | \$ 250.00 |
| 154 | (ii) Caterer's permit for holders of | |

| | | |
|-----|--|-------------------|
| 155 | on-premises retailer's permit..... | \$ 150.00 |
| 156 | On purchases exceeding \$5,000.00 and for each | |
| 157 | additional \$5,000.00, or fraction thereof..... | \$ 250.00 |
| 158 | (o) Research permit..... | \$ 100.00 |
| 159 | (p) Filing fee for each application for an | |
| 160 | employee identification card..... | \$ 5.00 |
| 161 | (q) <u>Wholesale alcoholic beverage distribution</u> | |
| 162 | <u>permit</u> | <u>\$1,800.00</u> |

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

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

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

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

188 under subsection (1) of this section for the privilege of doing
189 business within any municipality or county in which the licensee
190 is located. If the licensee is located within a municipality, the
191 commission shall pay the amount of additional license tax to the
192 municipality, and if outside a municipality the commission shall
193 pay the additional license tax to the county in which the licensee
194 is located. Payments by the commission to the respective local
195 government subdivisions shall be made once each month for any
196 collections during the preceding month.

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

203 (4) The number of permits issued by the commission shall not
204 be restricted or limited on a population basis; however, the
205 foregoing limitation shall not be construed to preclude the right
206 of the commission to refuse to issue a permit because of the
207 undesirability of the proposed location.

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

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

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

223 **SECTION 5.** Section 27-71-7, Mississippi Code of 1972, is
224 amended as follows:

225 27-71-7. (1) There is hereby levied and assessed an excise
226 tax upon each case of alcoholic beverages sold by the holder of a
227 wholesale alcoholic beverage distribution permit to be collected
228 from each retail licensee at the time of sale in accordance with
229 the following schedule:

- 230 (a) Distilled spirits..... \$5.00 per gallon
- 231 (b) Sparkling wine and champagne..... \$2.00 per gallon
- 232 (c) Other wines, including native
233 wines..... \$.75 per gallon

234 (2) (a) In addition to the tax levied by subsection (1) of
235 this section, and in addition to any other markup collected, the
236 holder of a wholesale alcoholic beverage distribution permit shall
237 collect a markup of three percent (3%) on all alcoholic beverages,
238 as defined in Section 67-1-5, Mississippi Code of 1972, which are
239 sold by the holder of a wholesale alcoholic beverage distribution
240 permit. The proceeds of the markup shall be collected by the
241 holder of a wholesale alcoholic beverage distribution permit from
242 each purchaser at the time of purchase.

243 * * *

244 (b) * * * The revenue derived from this three percent
245 (3%) markup shall be deposited by the State Tax Commission in the
246 State Treasury to the credit of the "Mental Health Programs Fund,"
247 a special fund which is hereby created in the State Treasury and
248 shall be used by the State Department of Mental Health for the
249 service programs of the department. * * *

250 (c) All revenue derived from the excise tax levied in
251 subsection (1) shall be deposited by the State Tax Commission in
252 the State General Fund.

253 The revenue derived from this tax and markup that is
254 collected by the holder of a wholesale alcoholic beverage
255 distribution permit shall be remitted by the holder of the
256 wholesale alcoholic beverage distribution permit to the State Tax
257 Commission at times prescribed by the commission.

258 **SECTION 6.** Section 27-71-9, Mississippi Code of 1972, is
259 amended as follows:

260 27-71-9. The commission may promulgate regulations
261 authorizing persons holding on-premises retailer's permits for
262 common carriers, as provided herein, to file periodic reports and
263 pay a tax based upon the value of alcoholic beverages sold while
264 in this state. * * *

265 **SECTION 7.** Section 27-71-15, Mississippi Code of 1972, is
266 amended as follows:

267 27-71-15. Except as otherwise provided in Section 67-9-1 for
268 the transportation of limited amounts of alcoholic beverages for
269 the use of an alcohol processing permittee, if transportation
270 requires passage through a county which has not authorized the
271 sale of alcoholic beverages, such transportation shall be by a
272 sealed vehicle. Such seal shall remain unbroken until the vehicle
273 shall reach the place of business operated by the permittee. The
274 operator of any vehicle transporting alcoholic beverages shall
275 have in his possession an invoice issued by the holder of a
276 wholesale alcoholic beverage distribution permit at the time of
277 the wholesale sale covering the merchandise transported by the
278 vehicle. The commission is authorized to issue regulations
279 controlling the transportation of alcoholic beverages.

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

286 **SECTION 8.** Section 27-71-21, Mississippi Code of 1972, is
287 amended as follows:

288 27-71-21. Before any person shall engage in the business of
289 manufacturing, distributing or retailing of alcoholic beverages,
290 he may be required to enter into a bond payable to the State of
291 Mississippi, conditioned that he will conduct said business
292 strictly in accordance with the laws of the State of Mississippi,
293 and that he will comply with the rules and regulations prescribed
294 by the commission, and pay all taxes due the State of Mississippi.
295 The amount of bond required of a wholesale distributor shall be
296 set by the commission; the amount of a bond required of a
297 manufacturer, not including a producer of native wine, shall not
298 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount
299 required of a retailer shall be Five Thousand Dollars (\$5,000.00).
300 Provided, however, any retailer whose check for purchase of
301 merchandise or payment of taxes shall be dishonored may be
302 required by the commission to post additional bond not to exceed
303 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
304 surety company authorized to do business in the State of
305 Mississippi and shall be approved by the commission. The
306 commission shall be authorized to institute suit in the proper
307 court for any violation of the condition of said bonds. The
308 amount of the bond required of a producer of native wine shall be
309 Five Thousand Dollars (\$5,000.00).

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

319 shall file notice with the Treasurer for any violation of the
320 conditions of the cash or security deposit.

321 **SECTION 9.** Section 67-1-5, Mississippi Code of 1972, is
322 amended as follows:

323 67-1-5. For the purposes of this chapter and unless
324 otherwise required by the context:

325 (a) * * * "Alcoholic beverage" mean any alcoholic
326 liquid, including wines of more than five percent (5%) of alcohol
327 by weight, capable of being consumed as a beverage by a human
328 being, but shall not include wine containing five percent (5%) or
329 less of alcohol by weight and shall not include beer containing
330 not more than five percent (5%) of alcohol by weight, as provided
331 for in Section 67-3-5, Mississippi Code of 1972, but shall include
332 native wines. The words "alcoholic beverage" shall not include
333 ethyl alcohol manufactured or distilled solely for fuel purposes.

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

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

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

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

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

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

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

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

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

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

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

384 the definition of "bed and breakfast inn" as provided in this
385 section.

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

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

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

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

406 (iii) Maintained by its members through the
407 payment of annual dues;

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

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

416 (vi) No member, officer, agent or employee of
417 which is paid, or directly or indirectly receives, in the form of
418 a salary or other compensation any profit from the distribution or
419 sale of alcoholic beverages to the club or to members or guests of
420 the club beyond such salary or compensation as may be fixed and
421 voted at a proper meeting by the board of directors or other
422 governing body out of the general revenues of the club.

423 The commission may, in its discretion, waive the five-year
424 provision of this paragraph. In order to qualify under this
425 paragraph, a club must file with the commission, at the time of
426 its application for a license under this chapter, two (2) copies
427 of a list of the names and residences of its members and similarly
428 file, within ten (10) days after the election of any additional
429 member, his name and address. Each club applying for a license
430 shall also file with the commission at the time of the application
431 a copy of its articles of association, charter of incorporation,
432 bylaws or other instruments governing the business and affairs
433 thereof.

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

444 (i) The commission may approve an area or locality
445 outside of the limits of an incorporated municipality that is in
446 the process of being developed as a qualified resort area if such
447 area or locality, when developed, can reasonably be expected to
448 meet the requisites of the definition of the term "qualified

449 resort area." In such a case, the status of qualified resort area
450 shall not take effect until completion of the development.

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

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

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

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

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

495 (s) "Wholesale alcoholic beverage distributor" means a
496 person engaged in purchasing, transporting and storing alcoholic
497 beverages within the State of Mississippi and selling at wholesale
498 alcoholic beverages to permittees who are authorized to sell
499 alcoholic beverages at retail.

500 **SECTION 10.** Section 67-1-9, Mississippi Code of 1972, is
501 amended as follows:

502 67-1-9. (1) It shall be unlawful for any person to
503 manufacture, distill, brew, sell, possess, import into this state,
504 export from the state, transport, distribute, warehouse, store,
505 solicit, take order for, bottle, rectify, blend, treat, mix or
506 process any alcoholic beverage except as authorized in this
507 chapter. However, nothing contained herein shall prevent
508 importers, wineries and distillers of alcoholic beverages from
509 storing such alcoholic beverages in private bonded warehouses
510 located within the State of Mississippi, and nothing contained
511 herein shall prohibit the holder of a wholesale alcoholic beverage
512 distribution permit from storing alcoholic beverages in private
513 bonded warehouses located in the State of Mississippi for resale

514 to authorized permittees. The commission is hereby authorized to
515 promulgate rules and regulations for the establishment of such
516 private bonded warehouses and for the control of alcoholic
517 beverages stored in such warehouses. Additionally, nothing herein
518 contained shall prevent any duly licensed practicing physician or
519 dentist from possessing or using alcoholic liquor in the strict
520 practice of his profession, or prevent any hospital or other
521 institution caring for sick and diseased persons, from possessing
522 and using alcoholic liquor for the treatment of bona fide patients
523 of such hospital or other institution. Any drugstore employing a
524 licensed pharmacist may possess and use alcoholic liquors in the
525 combination of prescriptions of duly licensed physicians. The
526 possession and dispensation of wine by an authorized
527 representative of any church for the purpose of conducting any
528 bona fide rite or religious ceremony conducted by such church
529 shall not be prohibited by this chapter.

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

532 (a) By a fine of not less than One Hundred Dollars
533 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
534 imprisonment in the county jail not less than one (1) week nor
535 more than three (3) months, or both, for the first conviction
536 under this section.

537 (b) By a fine of not less than One Hundred Dollars
538 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
539 imprisonment in the county jail not less than sixty (60) days, nor
540 more than six (6) months, or both fine and imprisonment, for the
541 second conviction for violating this section.

542 (c) By a fine of not less than One Hundred Dollars
543 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
544 imprisonment in the State Penitentiary not less than one (1) year,
545 nor more than five (5) years, or both fine and imprisonment, for

546 conviction the third time under this section for the violation
547 thereof after having been twice convicted of its violation.

548 **SECTION 11.** Section 67-1-37, Mississippi Code of 1972, is
549 amended as follows:

550 **[Until July 1, 2005, this section will read as follows:]**

551 67-1-37. The State Tax Commission, under its duties and
552 powers with respect to the Alcoholic Beverage Control Division
553 therein, shall have the following powers, functions and duties:

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

558 (b) To revoke, suspend or cancel, for violation of or
559 noncompliance with the provisions of this chapter, or the law
560 governing the production and sale of native wines, or any lawful
561 rules and regulations of the commission issued hereunder, or for
562 other sufficient cause, any permit issued by it under the
563 provisions of this chapter; however, no such permit shall be
564 revoked, suspended or cancelled except after a hearing of which
565 the permit holder shall have been given reasonable notice and an
566 opportunity to be heard. The commission shall be authorized to
567 suspend the permit of any permit holder for being out of
568 compliance with an order for support, as defined in Section
569 93-11-153. The procedure for suspension of a permit for being out
570 of compliance with an order for support, and the procedure for the
571 reissuance or reinstatement of a permit suspended for that
572 purpose, and the payment of any fees for the reissuance or
573 reinstatement of a permit suspended for that purpose, shall be
574 governed by Section 93-11-157 or Section 93-11-163, as the case
575 may be. If there is any conflict between any provision of Section
576 93-11-157 or Section 93-11-163 and any provision of this chapter,
577 the provisions of Section 93-11-157 or Section 93-11-163, as the
578 case may be, shall control.

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

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

586 (e) To issue rules regulating the advertising of
587 alcoholic beverages in the state in any class of media and
588 permitting advertising of the retail price of alcoholic beverages.

589 (f) To issue reasonable rules and regulations, not
590 inconsistent with the federal laws or regulations, requiring
591 informative labeling of all alcoholic beverages offered for sale
592 within this state and providing for the standards of fill and
593 shapes of retail containers of alcoholic beverages; however, such
594 containers shall not contain less than fifty (50) milliliters by
595 liquid measure.

596 (g) Subject to the provisions of * * * Section
597 67-1-51(3), to issue rules and regulations governing the issuance
598 of retail permits for premises located near or around schools,
599 colleges, universities, churches and other public institutions,
600 and specifying the distances therefrom within which no such permit
601 shall be issued. The Alcoholic Beverage Control Division shall
602 not allow the sale or consumption of alcoholic beverages in or on
603 the campus of any public school or college, and no alcoholic
604 beverage shall be for sale or consumed at any public athletic
605 event at any grammar or high school or any college.

606 (h) To adopt and promulgate, repeal and amend, such
607 rules, regulations, standards, requirements and orders, not
608 inconsistent with this chapter or any law of this state or of the
609 United States, as it deems necessary to control the manufacture,
610 importation, transportation, distribution and sale of alcoholic
611 liquor, whether intended for beverage or nonbeverage use in a

612 manner not inconsistent with the provisions of this chapter or any
613 other statute, including the native wine laws.

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

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

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

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

642 (m) To investigate the administration of laws in
643 relation to alcoholic liquors in this and other states and any
644 foreign countries, and to recommend from time to time to the

645 Governor and through him to the Legislature of this state such
646 amendments to this chapter, if any, as it may think desirable.

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

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

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

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

666 (r) To enforce the provisions made unlawful by Sections
667 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

668 (s) To adopt and promulgate rules and regulations
669 governing the wholesale distribution of alcoholic beverages.

670 **[From and after July 1, 2005, this section will read as**
671 **follows:]**

672 67-1-37. The State Tax Commission, under its duties and
673 powers with respect to the Alcoholic Beverage Control Division
674 therein, shall have the following powers, functions and duties:

675 (a) To issue or refuse to issue any permit provided for
676 by this chapter, or to extend the permit or remit in whole or any

677 part of the permit monies when the permit cannot be used due to a
678 natural disaster or Act of God.

679 (b) To revoke, suspend or cancel, for violation of or
680 noncompliance with the provisions of this chapter, or the law
681 governing the production and sale of native wines, or any lawful
682 rules and regulations of the commission issued hereunder, or for
683 other sufficient cause, any permit issued by it under the
684 provisions of this chapter; however, no such permit shall be
685 revoked, suspended or cancelled except after a hearing of which
686 the permit holder shall have been given reasonable notice and an
687 opportunity to be heard. The commission shall be authorized to
688 suspend the permit of any permit holder for being out of
689 compliance with an order for support, as defined in Section
690 93-11-153. The procedure for suspension of a permit for being out
691 of compliance with an order for support, and the procedure for the
692 reissuance or reinstatement of a permit suspended for that
693 purpose, and the payment of any fees for the reissuance or
694 reinstatement of a permit suspended for that purpose, shall be
695 governed by Section 93-11-157 or 93-11-163, as the case may be.
696 If there is any conflict between any provision of Section
697 93-11-157 or 93-11-163 and any provision of this chapter, the
698 provisions of Section 93-11-157 or 93-11-163, as the case may be,
699 shall control.

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

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

707 (e) To issue rules regulating the advertising of
708 alcoholic beverages in the state in any class of media and
709 permitting advertising of the retail price of alcoholic beverages.

710 (f) To issue reasonable rules and regulations, not
711 inconsistent with the federal laws or regulations, requiring
712 informative labeling of all alcoholic beverages offered for sale
713 within this state and providing for the standards of fill and
714 shapes of retail containers of alcoholic beverages; however, such
715 containers shall not contain less than fifty (50) milliliters by
716 liquid measure.

717 (g) Subject to the provisions of * * * Section
718 67-1-51(3), to issue rules and regulations governing the issuance
719 of retail permits for premises located near or around schools,
720 colleges, universities, churches and other public institutions,
721 and specifying the distances therefrom within which no such permit
722 shall be issued. The Alcoholic Beverage Control Division shall
723 not allow the sale or consumption of alcoholic beverages in or on
724 the campus of any public school or college, and no alcoholic
725 beverage shall be for sale or consumed at any public athletic
726 event at any grammar or high school or any college.

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

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

740 (j) To prepare and submit to the Governor during the
741 month of January of each year a detailed report of its official
742 acts during the preceding fiscal year ending June 30, including

743 such recommendations as it may see fit to make, and to transmit a
744 like report to each member of the Legislature of this state upon
745 the convening thereof at its next regular session.

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

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

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

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

771 (o) To assign employees to posts of duty at locations
772 where they will be most beneficial for the control of alcoholic
773 beverages, to remove, to dismiss, to suspend without pay, to act
774 as a trial board in hearings based upon charges against employees.
775 After twelve (12) months' service, no employee shall be removed,

776 dismissed, demoted or suspended without just cause and only after
777 being furnished with reasons for such removal, dismissal, demotion
778 or suspension, and upon request given a hearing in his own
779 defense.

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

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

787 (r) To adopt and promulgate rules and regulations
788 governing the wholesale distribution of alcoholic beverages.

789 **SECTION 12.** Section 67-1-41, Mississippi Code of 1972, is
790 amended as follows:

791 67-1-41. * * *

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

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

802 (3) The commission may promulgate rules and regulations
803 which authorize on-premises retailers to purchase limited amounts
804 of alcoholic beverages from package retailers and for package
805 retailers to purchase limited amounts of alcoholic beverages from
806 other package retailers. The commission shall develop and provide
807 forms to be completed by the on-premises retailers and the package
808 retailers verifying the transaction. The completed forms shall be

809 forwarded to the commission within a period of time prescribed by
810 the commission.

811 * * *

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

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

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

833 (7) The commission may promulgate rules and regulations that
834 authorize the holder of a research permit to import and purchase
835 limited amounts of alcoholic beverages from importers, wineries,
836 distillers and wholesale distributors of alcoholic
837 beverages * * *. The commission shall develop and provide forms
838 to be completed by the research permittee verifying each
839 transaction. The completed forms shall be forwarded to the
840 commission within a period of time prescribed by the commission.
841 The records and inventory of alcoholic beverages shall be open to

842 inspection at any time by the Director of the Alcoholic Beverage
843 Control Division or any duly authorized agent.

844 **SECTION 13.** Section 67-1-43, Mississippi Code of 1972, is
845 amended as follows:

846 67-1-43. Any authorized retail distributor who shall
847 purchase or receive intoxicating liquor from any source except
848 from the holder of a wholesale alcoholic beverage distribution
849 permit, unless authorized by rules and regulations of the
850 commission promulgated under subsection (4) of Section 67-1-41,
851 shall be guilty of a misdemeanor and upon conviction thereof shall
852 be punished by a fine of not less than Five Hundred Dollars
853 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to
854 which may be added imprisonment in the county jail for not more
855 than six (6) months. Any authorization of such person to sell
856 intoxicating beverages may be revoked as provided by law.

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

860 **SECTION 14.** Section 67-1-45, Mississippi Code of 1972, is
861 amended as follows:

862 67-1-45. No manufacturer, rectifier, * * * distiller or
863 wholesale distributor of intoxicating liquor shall sell or attempt
864 to sell any such intoxicating liquor, except malt liquor, within
865 the State of Mississippi, except as authorized in this chapter. A
866 producer of native wine may sell native wines to an authorized
867 retail distributor or directly to consumers.

868 Any violation of this section by any manufacturer, rectifier,
869 or distiller shall be punished by a fine of not less than Five
870 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
871 (\$2,000.00), to which may be added imprisonment in the county jail
872 not to exceed six (6) months.

873 **SECTION 15.** Section 67-1-51, Mississippi Code of 1972, is
874 amended as follows:

875 67-1-51. (1) Permits which may be issued by the commission
876 shall be as follows:

877 (a) **Manufacturer's permit.** A manufacturer's permit
878 shall permit the manufacture, importation in bulk, bottling and
879 storage of alcoholic liquor and its distribution and sale to
880 manufacturers holding permits under this chapter in this state and
881 to persons outside the state who are authorized by law to purchase
882 the same * * *. Manufacturer's permits shall be of the following
883 classes:

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

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

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

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

908 Nonalcoholic beverages sold by the holder of a package retailer's
909 permit shall not be consumed on the premises where sold.

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

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

937 (e) **Native wine retailer's permit.** A native wine
938 retailer's permit shall be issued only to a holder of a Class 3
939 manufacturer's permit, and shall authorize the holder thereof to
940 make retail sales of native wines to consumers for on-premises

941 consumption or to consumers in originally sealed and unopened
942 containers at an establishment located on the premises of or in
943 the immediate vicinity of a native winery.

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

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

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

970 Class 2. A temporary permit, not to exceed seventy (70)
971 days, may be issued to prospective permittees seeking to transfer
972 a permit authorized in either paragraph (b) or (c) of this
973 section. A Class 2 permit may be issued only to applicants

974 demonstrating to the commission, by affidavit, that they meet the
975 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
976 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
977 commission, following a preliminary review of the affidavit and
978 the requirements of the applicable statutes and regulations, may
979 issue the permit.

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

988 (g) **Caterer's permit.** A caterer's permit shall permit
989 the purchase of alcoholic beverages by a person engaging in
990 business as a caterer and the resale of alcoholic beverages by
991 such person in conjunction with such catering business. No person
992 shall qualify as a caterer unless forty percent (40%) or more of
993 the revenue derived from such catering business shall be from the
994 serving of prepared food and not from the sale of alcoholic
995 beverages and unless such person has obtained a permit for such
996 business from the Department of Health. A caterer's permit shall
997 not authorize the sale of alcoholic beverages on the premises of
998 the person engaging in business as a caterer; however, the holder
999 of an on-premises retailer's permit may hold a caterer's permit.
1000 All sales of alcoholic beverages by holders of a caterer's permit
1001 shall be made at the location being catered by the caterer, and
1002 such sales may be made only for consumption at the catered
1003 location. Such sales shall be made pursuant to any other
1004 conditions and restrictions which apply to sales made by
1005 on-premises retail permittees. The holder of a caterer's permit
1006 or his employees shall remain at the catered location as long as

1007 alcoholic beverages are being sold pursuant to the permit issued
1008 under this paragraph (g), and the permittee and employees at such
1009 location shall each have personal identification cards issued by
1010 the Alcoholic Beverage Control Division of the commission. No
1011 unsold alcoholic beverages may be left at the catered location by
1012 the permittee upon the conclusion of his business at that
1013 location. Appropriate law enforcement officers and Alcoholic
1014 Beverage Control Division personnel may enter a catered location
1015 on private property in order to enforce laws governing the sale or
1016 serving of alcoholic beverages.

1017 (h) **Research Permit.** A research permit shall authorize
1018 the holder thereof to operate a research facility for the
1019 professional research of alcoholic beverages. Such permit shall
1020 authorize the holder of the permit to import and purchase limited
1021 amounts of alcoholic beverages from * * * importers, wineries,
1022 distillers and distributors of alcoholic beverages for
1023 professional research.

1024 (i) **Alcohol processing permit.** An alcohol processing
1025 permit shall authorize the holder thereof to purchase, transport
1026 and possess alcoholic beverages for the exclusive use in cooking,
1027 processing or manufacturing products which contain alcoholic
1028 beverages as an integral ingredient. An alcohol processing permit
1029 shall not authorize the sale of alcoholic beverages on the
1030 premises of the person engaging in the business of cooking,
1031 processing or manufacturing products which contain alcoholic
1032 beverages. The amounts of alcoholic beverages allowed under an
1033 alcohol processing permit shall be set by the commission.

1034 (j) **Wholesale alcoholic beverage distribution permit.**
1035 A wholesale alcoholic beverage distribution permit shall be issued
1036 only to private entities who are granted the authority to
1037 distribute alcoholic beverages pursuant to Section 2, House Bill
1038 No. _____, 2004 Regular Session. Such permit shall authorize the
1039 holder thereof to purchase for resale, to store and to distribute

1040 to authorized permittees, alcoholic beverages. Such permit shall
1041 entitle the holder thereof to purchase alcoholic beverages from
1042 any manufacturer or importer for the purpose of resale in this
1043 state to permittees that are authorized to sell alcoholic
1044 beverages at retail. The holder of a wholesale alcoholic beverage
1045 distribution permit may transport alcoholic beverages into the
1046 State of Mississippi and store such alcoholic beverages in a
1047 private bonded warehouse of such permittee's choice for sale to
1048 permittees who are authorized to sell alcoholic beverages at
1049 retail. The holder of a wholesale alcoholic beverage distribution
1050 permit may solicit orders for alcoholic beverages from any
1051 permittee that is authorized to sell alcoholic beverages at
1052 retail. Records of such orders shall be kept and maintained for a
1053 period of three (3) years after the order is taken and shall be
1054 subject to inspection by the division at any time without prior
1055 notice.

1056 (2) Except as otherwise provided in subsection (4) of this
1057 section, retail permittees may hold more than one (1) retail
1058 permit, at the discretion of the commission.

1059 (3) Except as otherwise provided in this subsection, no
1060 authority shall be granted to any person to manufacture, sell or
1061 store for sale any intoxicating liquor as specified in this
1062 chapter within four hundred (400) feet of any church, school,
1063 kindergarten or funeral home. However, within an area zoned
1064 commercial or business, such minimum distance shall be not less
1065 than one hundred (100) feet.

1066 A church or funeral home may waive the distance restrictions
1067 imposed in this subsection in favor of allowing issuance by the
1068 commission of a permit, pursuant to subsection (1) of this
1069 section, to authorize activity relating to the manufacturing, sale
1070 or storage of alcoholic beverages which would otherwise be
1071 prohibited under the minimum distance criterion. Such waiver
1072 shall be in written form from the owner, the governing body, or

1073 the appropriate officer of the church or funeral home having the
1074 authority to execute such a waiver, and the waiver shall be filed
1075 with and verified by the commission before becoming effective.

1076 The distance restrictions imposed in this subsection shall
1077 not apply to the sale or storage of alcoholic beverages at a bed
1078 and breakfast inn listed in the National Register of Historic
1079 Places.

1080 (4) No person, either individually or as a member of a firm,
1081 partnership or association, or as a stockholder, officer or
1082 director in a corporation, shall own or control any interest in
1083 more than one (1) package retailer's permit, nor shall such
1084 person's spouse, if living in the same household of such person,
1085 any relative of such person, if living in the same household of
1086 such person, or any other person living in the same household with
1087 such person own any interest in any other package retailer's
1088 permit.

1089 **SECTION 16.** Section 67-1-77, Mississippi Code of 1972, is
1090 amended as follows:

1091 67-1-77. (1) It shall be unlawful for the holder of a
1092 manufacturer's or wholesaler's permit, or anyone connected with
1093 the business of such holder, or for any other distiller, wine
1094 manufacturer, wholesale distributor, brewer, rectifier, blender or
1095 bottler, to have any financial interest in any premises upon which
1096 any alcoholic beverage is sold at retail by any permittee, or in
1097 the business conducted by such permittee; provided, however, the
1098 holder of a manufacturer's or wholesaler's permit may contract for
1099 the service of a representative in the area of governmental
1100 affairs on a part-time basis with a holder of an on-premises
1101 permit.

1102 (2) It shall also be unlawful for any such person, or anyone
1103 connected with his, its, or their business to lend any money or
1104 make any gift or offer any gratuity, to any retail permittee,
1105 except as authorized by regulations of the commission, to the

1106 holder of any retail permit issued under the provisions of this
1107 chapter. Except as above provided, no retail permittee shall
1108 accept, receive, or make use of any money or gift furnished by any
1109 such person, or become indebted to such person except for the
1110 purchase of alcoholic beverages.

1111 (3) The commission shall not prohibit the furnishing of
1112 advertising specialties, printed materials, or other things having
1113 nominal value to a retail permittee. This section shall not be
1114 construed to prohibit the possession by any person of advertising
1115 specialties, printed materials, or other things having nominal
1116 value furnished by a retail permittee.

1117 (4) Any person violating the provisions of this section
1118 shall, upon conviction, be punished by a fine of not more than
1119 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1120 than two (2) years, or by both such fine and imprisonment, in the
1121 discretion of the court.

1122 **SECTION 17.** Section 67-1-79, Mississippi Code of 1972, is
1123 amended as follows:

1124 67-1-79. * * * Each delivery of any alcoholic beverage to a
1125 retail permittee shall be accompanied by an invoice of sale or
1126 delivery slip which shall bear as its date the date of delivery of
1127 such alcoholic beverage.

1128 **SECTION 18.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,
1129 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the
1130 State Tax Commission to request the State Bond Commission to
1131 provide sufficient funds required to maintain an adequate
1132 alcoholic beverage inventory, require the State Tax Commission to
1133 purchase directly from the manufacturer, provide penalties for
1134 selling alcoholic beverages not identified as having been
1135 purchased by the commission, require distillers and distributors
1136 dealing with the State Tax Commission to register with the
1137 Secretary of State and require distillers having contracts with

1138 the State Tax Commission to file statements of salary expenses,
1139 are repealed.

1140 **SECTION 19.** Sections 1, 2 and 3 of this act shall take
1141 effect and be in force from and after their passage; the remainder
1142 shall take effect and be in force from and after January 1, 2005.