

By: Senator(s) Hewes

To: Finance

SENATE BILL NO. 2035

1 AN ACT TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-9, 27-71-15,
2 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-43, 67-1-45,
3 67-1-51, 67-1-77 AND 67-1-79, MISSISSIPPI CODE OF 1972, TO
4 AUTHORIZE THE DISTRIBUTION OF ALCOHOLIC BEVERAGES BY PRIVATE
5 ENTITIES; TO PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR AN
6 ALCOHOLIC BEVERAGE DISTRIBUTOR'S PERMIT; TO PROVIDE FOR AN EXCISE
7 TAX ON ALCOHOLIC BEVERAGES SOLD BY THE HOLDER OF AN ALCOHOLIC
8 BEVERAGE DISTRIBUTOR'S PERMIT AND THE COLLECTION OF SUCH TAX; TO
9 REQUIRE THE OPERATOR OF A VEHICLE TRANSPORTING ALCOHOLIC BEVERAGES
10 TO POSSESS AN INVOICE ISSUED BY THE HOLDER OF AN ALCOHOLIC
11 BEVERAGE DISTRIBUTOR'S PERMIT; TO PROVIDE THAT PERSONS ENGAGED IN
12 THE BUSINESS OF DISTRIBUTING ALCOHOLIC BEVERAGES MAY BE REQUIRED
13 TO ENTER INTO A BOND PAYABLE TO THE STATE OF MISSISSIPPI
14 CONDITIONED THAT SUCH DISTRIBUTOR WILL CONDUCT HIS BUSINESS
15 LAWFULLY; TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE
16 RULES AND REGULATIONS GOVERNING THE PURCHASE FOR RESALE,
17 DISTRIBUTION AND SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE THAT THE
18 STATE TAX COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR OF
19 ALCOHOLIC BEVERAGES; TO AUTHORIZE THE STATE TAX COMMISSION TO
20 ISSUE ALCOHOLIC BEVERAGE DISTRIBUTOR'S PERMITS; TO PROVIDE THAT
21 SUCH PERMITS SHALL AUTHORIZE THE HOLDER THEREOF TO PURCHASE
22 ALCOHOLIC BEVERAGES FROM ANY MANUFACTURER OR IMPORTER, TRANSPORT
23 ALCOHOLIC BEVERAGES INTO THE STATE OF MISSISSIPPI, STORE ALCOHOLIC
24 BEVERAGES AT THE PRIVATE BONDED WAREHOUSE OF SUCH PERMITTEE'S
25 CHOICE AND SOLICIT ORDERS FROM AND SELL ALCOHOLIC BEVERAGES TO
26 PERMITTEES WHO ARE AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT
27 RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE KEPT FOR THREE
28 YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE ALCOHOLIC BEVERAGE
29 CONTROL DIVISION AT ANY TIME; TO REQUIRE THE HOLDER OF AN
30 ALCOHOLIC BEVERAGE DISTRIBUTOR'S PERMIT TO DELIVER ALCOHOLIC
31 BEVERAGES WITHIN THREE DAYS OF RECEIPT OF THE ORDER; TO MAKE IT
32 UNLAWFUL FOR AN ALCOHOLIC BEVERAGE DISTRIBUTOR TO HAVE A FINANCIAL
33 INTEREST IN ANY PREMISES UPON WHICH ANY ALCOHOLIC BEVERAGE IS SOLD
34 AT RETAIL; TO REPEAL SECTIONS 27-71-11, 27-71-13, 27-71-17,
35 27-71-19, 67-1-47 AND 67-1-49, MISSISSIPPI CODE OF 1972, WHICH
36 AUTHORIZE THE STATE TAX COMMISSION TO REQUEST THE STATE BOND
37 COMMISSION TO PROVIDE SUFFICIENT FUNDS REQUIRED TO MAINTAIN AN
38 ADEQUATE ALCOHOLIC BEVERAGE INVENTORY, REQUIRE THE STATE TAX
39 COMMISSION TO PURCHASE DIRECTLY FROM THE MANUFACTURER, PROVIDE
40 PENALTIES FOR SELLING ALCOHOLIC BEVERAGES NOT IDENTIFIED AS HAVING
41 BEEN PURCHASED BY THE COMMISSION, REQUIRE DISTILLERS AND
42 DISTRIBUTORS DEALING WITH THE STATE TAX COMMISSION TO REGISTER
43 WITH THE SECRETARY OF STATE AND REQUIRE DISTILLERS HAVING
44 CONTRACTS WITH THE STATE TAX COMMISSION TO FILE STATEMENTS OF
45 SALARY EXPENSES; AND FOR RELATED PURPOSES.

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

47 **SECTION 1.** Section 27-71-5, Mississippi Code of 1972, is
48 amended as follows:

49 27-71-5. (1) Upon each person approved for a permit under
 50 the provisions of the Alcoholic Beverage Control Law and
 51 amendments thereto, there is levied and imposed for each location
 52 for the privilege of engaging and continuing in this state in the
 53 business authorized by such permit, an annual privilege license
 54 tax in the amount provided in the following schedule:

55 (a) Manufacturer's permit, Class 1,
 56 distiller's and/or rectifier's..... \$4,500.00

57 (b) Manufacturer's permit, Class 2, wine
 58 manufacturer \$1,800.00

59 (c) Manufacturer's permit, Class 3, native
 60 wine manufacturer per 10,000 gallons or part thereof
 61 produced..... \$ 10.00

62 (d) Native wine retailer's permit..... \$ 50.00

63 (e) Package retailer's permit, each..... \$ 900.00

64 (f) On-premises retailer's permit, except
 65 for clubs and common carriers, each..... \$ 450.00

66 On purchases exceeding \$5,000.00 and for each
 67 additional \$5,000.00, or fraction thereof..... \$ 225.00

68 (g) On-premises retailer's permit for wine
 69 of more than four percent (4%) alcohol by volume, but
 70 not more than twenty-one percent (21%) alcohol by
 71 volume (each)..... \$ 225.00

72 On purchases exceeding \$5,000.00 and for each
 73 additional \$5,000.00, or fraction thereof..... \$ 225.00

74 (h) On-premises retailer's permit for clubs.. \$ 225.00

75 On purchases exceeding \$5,000.00 and for each
 76 additional \$5,000.00, or fraction thereof..... \$ 225.00

77 (i) On-premises retailer's permit for
 78 common carriers, per car, plane, or other vehicle..... \$ 120.00

79 (j) Solicitor's permit, regardless of any
 80 other provision of law, solicitor's permits shall be
 81 issued only in the discretion of the commission..... \$ 100.00

82	(k) Filing fee for each application except	
83	for an employee identification card.....	\$ 25.00
84	(l) Temporary permit, Class 1, each.....	\$ 10.00
85	(m) Temporary permit, Class 2, each.....	\$ 50.00
86	On-premises purchases exceeding \$5,000.00 and for	
87	each additional \$5,000.00, or fraction thereof.....	\$ 225.00
88	(n) (i) Caterer's permit.....	\$ 600.00
89	On purchases exceeding \$5,000.00 and for each	
90	additional \$5,000.00, or fraction thereof.....	\$ 250.00
91	(ii) Caterer's permit for holders of	
92	on-premises retailer's permit.....	\$ 150.00
93	On purchases exceeding \$5,000.00 and for each	
94	additional \$5,000.00, or fraction thereof.....	\$ 250.00
95	(o) Research permit.....	\$ 100.00
96	(p) Filing fee for each application for an	
97	employee identification card.....	\$ 5.00
98	(q) <u>Alcoholic beverage distributor's</u>	
99	<u>permit.....</u>	<u>\$1,800.00</u>

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

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

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

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

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

140 (4) The number of permits issued by the commission shall not
141 be restricted or limited on a population basis; however, the
142 foregoing limitation shall not be construed to preclude the right
143 of the commission to refuse to issue a permit because of the
144 undesirability of the proposed location.

145 (5) If any person shall engage or continue in any business
146 which is taxable hereunder without having paid the tax as provided

147 herein, such person shall be liable for the full amount of such
148 tax plus a penalty thereon equal to the amount thereof, and, in
149 addition, shall be punished by a fine of not more than One
150 Thousand Dollars (\$1,000.00), or by imprisonment in the county
151 jail for a term of not more than six (6) months, or by both such
152 fine and imprisonment, in the discretion of the court.

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

160 **SECTION 2.** Section 27-71-7, Mississippi Code of 1972, is
161 amended as follows:

162 27-71-7. (1) There is hereby levied and assessed an excise
163 tax upon each case of alcoholic beverages sold by the holder of an
164 alcoholic beverage distributor's permit to be collected from each
165 retail licensee at the time of sale in accordance with the
166 following schedule:

- 167 (a) Distilled spirits..... \$2.50 per gallon
168 (b) Sparkling wine and champagne..... \$1.00 per gallon
169 (c) Other wines, including native
170 wines..... \$.35 per gallon

171 (2) (a) In addition to the tax levied by subsection (1) of
172 this section, and in addition to any other markup collected, the
173 holder of an alcoholic beverage distributor's permit shall collect
174 a markup of three percent (3%) on all alcoholic beverages, as
175 defined in Section 67-1-5, Mississippi Code of 1972, which are
176 sold by the holder of an alcoholic beverage distributor's permit.
177 The proceeds of the markup shall be collected by the holder of an
178 alcoholic beverage distributor's permit, as appropriate, from each
179 purchaser at the time of purchase.

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

199 From and after July 1, 1987, the revenue derived from this
200 three percent (3%) markup and remitted to the State Tax Commission
201 shall be deposited by the State Tax Commission in the State
202 Treasury to the credit of the "Mental Health Programs Fund," a
203 special fund which is hereby created in the State Treasury and
204 shall be used by the State Department of Mental Health for the
205 service programs of the department. Any revenue in the
206 "Alcoholism Treatment and Rehabilitation Fund" which is not
207 encumbered at the end of Fiscal Year 1987 shall be deposited to
208 the credit of the "Mental Health Programs Fund."

209 (3) The tax and markup provided for in subsections (1) and
210 (2) of this section are collected by the holder of an alcoholic
211 beverage distributor's permit, the proceeds of such tax and markup
212 shall be remitted to the State Tax Commission on or before the

213 fifteenth day of the month following the month in which the tax
214 and markup were collected.

215 **SECTION 3.** Section 27-71-9, Mississippi Code of 1972, is
216 amended as follows:

217 27-71-9. The commission may promulgate regulations
218 authorizing persons holding on-premises retailer's permits for
219 common carriers, as provided herein, to file periodic reports and
220 pay a tax based upon the value of alcoholic beverages sold while
221 in this state. * * *

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

224 27-71-15. Except as otherwise provided in Section 67-9-1 for
225 the transportation of limited amounts of alcoholic beverages for
226 the use of an alcohol processing permittee, if transportation
227 requires passage through a county which has not authorized the
228 sale of alcoholic beverages, such transportation shall be by a
229 sealed vehicle. Such seal shall remain unbroken until the vehicle
230 shall reach the place of business operated by the permittee. The
231 operator of any vehicle transporting alcoholic beverages shall
232 have in his possession an invoice issued by the holder of an
233 alcoholic beverage distributor's permit at the time of the
234 wholesale sale covering the merchandise transported by the
235 vehicle. The commission is authorized to issue regulations
236 controlling the transportation of alcoholic beverages.

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

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

245 27-71-21. Before any person shall engage in the business of
246 manufacturing, distributing or retailing of alcoholic beverages,
247 he may be required to enter into a bond payable to the State of
248 Mississippi, conditioned that he will conduct said business
249 strictly in accordance with the laws of the State of Mississippi,
250 and that he will comply with the rules and regulations prescribed
251 by the commission, and pay all taxes due the State of Mississippi.
252 The amount of a bond required of a distributor or a manufacturer,
253 not including a producer of native wine, shall not exceed One
254 Hundred Thousand Dollars (\$100,000.00), and the amount required of
255 a retailer shall be Five Thousand Dollars (\$5,000.00). Provided,
256 however, any retailer whose check for purchase of merchandise or
257 payment of taxes shall be dishonored may be required by the
258 commission to post additional bond not to exceed Five Thousand
259 Dollars (\$5,000.00). Such bond shall be made in a surety company
260 authorized to do business in the State of Mississippi and shall be
261 approved by the commission. The commission shall be authorized to
262 institute suit in the proper court for any violation of the
263 condition of said bonds. The amount of the bond required of a
264 producer of native wine shall be Five Thousand Dollars
265 (\$5,000.00).

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

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

279 67-1-5. For the purposes of this chapter and unless
280 otherwise required by the context:

281 (a) * * * "Alcoholic beverage" mean any alcoholic
282 liquid, including wines of more than five percent (5%) of alcohol
283 by weight, capable of being consumed as a beverage by a human
284 being, but shall not include wine containing five percent (5%) or
285 less of alcohol by weight and shall not include beer containing
286 not more than five percent (5%) of alcohol by weight, as provided
287 for in Section 67-3-5, Mississippi Code of 1972, but shall include
288 native wines. The words "alcoholic beverage" shall not include
289 ethyl alcohol manufactured or distilled solely for fuel purposes.

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

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

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

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

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

308 (g) * * * "Wholesaler" means any person, other than a
309 manufacturer, engaged in distributing or selling any alcoholic

310 beverage at wholesale for delivery within or without this state
311 when such sale is for the purpose of resale by the purchaser.

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

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

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

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

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

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

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

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

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

362 (iii) Maintained by its members through the
363 payment of annual dues;

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

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

372 (vi) No member, officer, agent or employee of
373 which is paid, or directly or indirectly receives, in the form of
374 a salary or other compensation any profit from the distribution or

375 sale of alcoholic beverages to the club or to members or guests of
376 the club beyond such salary or compensation as may be fixed and
377 voted at a proper meeting by the board of directors or other
378 governing body out of the general revenues of the club.

379 The commission may, in its discretion, waive the five-year
380 provision of this paragraph. In order to qualify under this
381 paragraph, a club must file with the commission, at the time of
382 its application for a license under this chapter, two (2) copies
383 of a list of the names and residences of its members and similarly
384 file, within ten (10) days after the election of any additional
385 member, his name and address. Each club applying for a license
386 shall also file with the commission at the time of the application
387 a copy of its articles of association, charter of incorporation,
388 bylaws or other instruments governing the business and affairs
389 thereof.

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

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

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

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

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

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

437 (r) * * * "Bed and breakfast inn" means an
438 establishment within a municipality where in consideration of
439 payment, breakfast and lodging are habitually furnished to

440 travelers and wherein are located not less than eight (8) and not
441 more than nineteen (19) adequately furnished and completely
442 separate sleeping rooms with adequate facilities, that persons
443 usually apply for and receive as overnight accommodations;
444 however, such restriction on the minimum number of sleeping rooms
445 shall not apply to establishments on the National Register of
446 Historic Places. No place shall qualify as a bed and breakfast
447 inn under this chapter unless on the date of the initial
448 application for a license under this chapter more than fifty
449 percent (50%) of the sleeping rooms are located in a structure
450 formerly used as a residence.

451 (s) "Alcoholic beverage distributor" means a person
452 engaged in purchasing, transporting and storing alcoholic
453 beverages within the State of Mississippi and selling at wholesale
454 alcoholic beverages to permittees who are authorized to sell
455 alcoholic beverages at retail.

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

458 67-1-9. (1) It shall be unlawful for any person to
459 manufacture, distill, brew, sell, possess, import into this state,
460 export from the state, transport, distribute, warehouse, store,
461 solicit, take order for, bottle, rectify, blend, treat, mix or
462 process any alcoholic beverage except as authorized in this
463 chapter. However, nothing contained herein shall prevent
464 importers, wineries and distillers of alcoholic beverages from
465 storing such alcoholic beverages in private bonded warehouses
466 located within the State of Mississippi, and nothing contained
467 herein shall prohibit the holder of an alcoholic beverage
468 distributor's permit from storing alcoholic beverages in private
469 bonded warehouses located in the State of Mississippi for resale
470 to authorized permittees. The commission is hereby authorized to
471 promulgate rules and regulations for the establishment of such
472 private bonded warehouses and for the control of alcoholic

473 beverages stored in such warehouses. Additionally, nothing herein
474 contained shall prevent any duly licensed practicing physician or
475 dentist from possessing or using alcoholic liquor in the strict
476 practice of his profession, or prevent any hospital or other
477 institution caring for sick and diseased persons, from possessing
478 and using alcoholic liquor for the treatment of bona fide patients
479 of such hospital or other institution. Any drugstore employing a
480 licensed pharmacist may possess and use alcoholic liquors in the
481 combination of prescriptions of duly licensed physicians. The
482 possession and dispensation of wine by an authorized
483 representative of any church for the purpose of conducting any
484 bona fide rite or religious ceremony conducted by such church
485 shall not be prohibited by this chapter.

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

488 (a) By a fine of not less than One Hundred Dollars
489 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
490 imprisonment in the county jail not less than one (1) week nor
491 more than three (3) months, or both, for the first conviction
492 under this section.

493 (b) By a fine of not less than One Hundred Dollars
494 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
495 imprisonment in the county jail not less than sixty (60) days, nor
496 more than six (6) months, or both fine and imprisonment, for the
497 second conviction for violating this section.

498 (c) By a fine of not less than One Hundred Dollars
499 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
500 imprisonment in the State Penitentiary not less than one (1) year,
501 nor more than five (5) years, or both fine and imprisonment, for
502 conviction the third time under this section for the violation
503 thereof after having been twice convicted of its violation.

504 **SECTION 8.** Section 67-1-37, Mississippi Code of 1972, is
505 amended as follows:

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

507 67-1-37. The State Tax Commission, under its duties and
508 powers with respect to the Alcoholic Beverage Control Division
509 therein, shall have the following powers, functions and duties:

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

514 (b) To revoke, suspend or cancel, for violation of or
515 noncompliance with the provisions of this chapter, or the law
516 governing the production and sale of native wines, or any lawful
517 rules and regulations of the commission issued hereunder, or for
518 other sufficient cause, any permit issued by it under the
519 provisions of this chapter; however, no such permit shall be
520 revoked, suspended or cancelled except after a hearing of which
521 the permit holder shall have been given reasonable notice and an
522 opportunity to be heard. The commission shall be authorized to
523 suspend the permit of any permit holder for being out of
524 compliance with an order for support, as defined in Section
525 93-11-153. The procedure for suspension of a permit for being out
526 of compliance with an order for support, and the procedure for the
527 reissuance or reinstatement of a permit suspended for that
528 purpose, and the payment of any fees for the reissuance or
529 reinstatement of a permit suspended for that purpose, shall be
530 governed by Section 93-11-157 or Section 93-11-163, as the case
531 may be. If there is any conflict between any provision of Section
532 93-11-157 or Section 93-11-163 and any provision of this chapter,
533 the provisions of Section 93-11-157 or Section 93-11-163, as the
534 case may be, shall control.

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

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

542 (e) To issue rules regulating the advertising of
543 alcoholic beverages in the state in any class of media and
544 permitting advertising of the retail price of alcoholic beverages.

545 (f) To issue reasonable rules and regulations, not
546 inconsistent with the federal laws or regulations, requiring
547 informative labeling of all alcoholic beverages offered for sale
548 within this state and providing for the standards of fill and
549 shapes of retail containers of alcoholic beverages; however, such
550 containers shall not contain less than fifty (50) milliliters by
551 liquid measure.

552 (g) Subject to the provisions of * * * Section
553 67-1-51(3), to issue rules and regulations governing the issuance
554 of retail permits for premises located near or around schools,
555 colleges, universities, churches and other public institutions,
556 and specifying the distances therefrom within which no such permit
557 shall be issued. The Alcoholic Beverage Control Division shall
558 not allow the sale or consumption of alcoholic beverages in or on
559 the campus of any public school or college, and no alcoholic
560 beverage shall be for sale or consumed at any public athletic
561 event at any grammar or high school or any college.

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

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

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

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

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

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

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

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

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

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

622 (r) To enforce the provisions made unlawful by Sections
623 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

624 (s) To adopt and promulgate rules and regulations
625 governing the purchase for resale, distribution and sale of
626 alcoholic beverages.

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

629 67-1-37. The State Tax Commission, under its duties and
630 powers with respect to the Alcoholic Beverage Control Division
631 therein, shall have the following powers, functions and duties:

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

636 (b) To revoke, suspend or cancel, for violation of or
637 noncompliance with the provisions of this chapter, or the law
638 governing the production and sale of native wines, or any lawful
639 rules and regulations of the commission issued hereunder, or for
640 other sufficient cause, any permit issued by it under the
641 provisions of this chapter; however, no such permit shall be
642 revoked, suspended or cancelled except after a hearing of which
643 the permit holder shall have been given reasonable notice and an
644 opportunity to be heard. The commission shall be authorized to
645 suspend the permit of any permit holder for being out of
646 compliance with an order for support, as defined in Section
647 93-11-153. The procedure for suspension of a permit for being out
648 of compliance with an order for support, and the procedure for the
649 reissuance or reinstatement of a permit suspended for that
650 purpose, and the payment of any fees for the reissuance or
651 reinstatement of a permit suspended for that purpose, shall be
652 governed by Section 93-11-157 or 93-11-163, as the case may be.
653 If there is any conflict between any provision of Section
654 93-11-157 or 93-11-163 and any provision of this chapter, the
655 provisions of Section 93-11-157 or 93-11-163, as the case may be,
656 shall control.

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

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

664 (e) To issue rules regulating the advertising of
665 alcoholic beverages in the state in any class of media and
666 permitting advertising of the retail price of alcoholic beverages.

667 (f) To issue reasonable rules and regulations, not
668 inconsistent with the federal laws or regulations, requiring

669 informative labeling of all alcoholic beverages offered for sale
670 within this state and providing for the standards of fill and
671 shapes of retail containers of alcoholic beverages; however, such
672 containers shall not contain less than fifty (50) milliliters by
673 liquid measure.

674 (g) Subject to the provisions of * * * Section
675 67-1-51(3), to issue rules and regulations governing the issuance
676 of retail permits for premises located near or around schools,
677 colleges, universities, churches and other public institutions,
678 and specifying the distances therefrom within which no such permit
679 shall be issued. The Alcoholic Beverage Control Division shall
680 not allow the sale or consumption of alcoholic beverages in or on
681 the campus of any public school or college, and no alcoholic
682 beverage shall be for sale or consumed at any public athletic
683 event at any grammar or high school or any college.

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

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

697 (j) To prepare and submit to the Governor during the
698 month of January of each year a detailed report of its official
699 acts during the preceding fiscal year ending June 30, including
700 such recommendations as it may see fit to make, and to transmit a

701 like report to each member of the Legislature of this state upon
702 the convening thereof at its next regular session.

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

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

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

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

728 (o) To assign employees to posts of duty at locations
729 where they will be most beneficial for the control of alcoholic
730 beverages, to remove, to dismiss, to suspend without pay, to act
731 as a trial board in hearings based upon charges against employees.
732 After twelve (12) months' service, no employee shall be removed,
733 dismissed, demoted or suspended without just cause and only after

734 being furnished with reasons for such removal, dismissal, demotion
735 or suspension, and upon request given a hearing in his own
736 defense.

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

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

744 (r) To adopt and promulgate rules and regulations
745 governing the purchase for resale, distribution and sale of
746 alcoholic beverages.

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

749 67-1-41.

750 * * *

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

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

761 (3) The commission may promulgate rules and regulations
762 which authorize on-premises retailers to purchase limited amounts
763 of alcoholic beverages from package retailers and for package
764 retailers to purchase limited amounts of alcoholic beverages from
765 other package retailers. The commission shall develop and provide
766 forms to be completed by the on-premises retailers and the package

767 retailers verifying the transaction. The completed forms shall be
768 forwarded to the commission within a period of time prescribed by
769 the commission.

770 * * *

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

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

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

792 (7) The commission may promulgate rules and regulations that
793 authorize the holder of a research permit to import and purchase
794 limited amounts of alcoholic beverages from importers, wineries,
795 distillers and distributors of alcoholic beverages * * *. The
796 commission shall develop and provide forms to be completed by the
797 research permittee verifying each transaction. The completed
798 forms shall be forwarded to the commission within a period of time
799 prescribed by the commission. The records and inventory of

800 alcoholic beverages shall be open to inspection at any time by the
801 Director of the Alcoholic Beverage Control Division or any duly
802 authorized agent.

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

805 67-1-43. Any authorized retail distributor who shall
806 purchase or receive intoxicating liquor from any source except
807 from the holder of an alcoholic beverage distributor's permit,
808 unless authorized by rules and regulations of the commission
809 promulgated under subsection (4) of Section 67-1-41, shall be
810 guilty of a misdemeanor and upon conviction thereof shall be
811 punished by a fine of not less than Five Hundred Dollars
812 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to
813 which may be added imprisonment in the county jail for not more
814 than six (6) months. Any authorization of such person to sell
815 intoxicating beverages may be revoked as provided by law.

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

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

821 67-1-45. No manufacturer, rectifier, * * * distiller or
822 distributor of intoxicating liquor shall sell or attempt to sell
823 any such intoxicating liquor, except malt liquor, within the State
824 of Mississippi, except as authorized in this chapter. * * * A
825 producer of native wine may sell native wines to an * * *
826 authorized retail distributor or directly to consumers.

827 Any violation of this section by any manufacturer, rectifier,
828 or distiller shall be punished by a fine of not less than Five
829 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
830 (\$2,000.00), to which may be added imprisonment in the county jail
831 not to exceed six (6) months.

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

834 67-1-51. (1) Permits which may be issued by the commission
835 shall be as follows:

836 (a) **Manufacturer's permit.** A manufacturer's permit
837 shall permit the manufacture, importation in bulk, bottling and
838 storage of alcoholic liquor and its distribution and sale to
839 manufacturers holding permits under this chapter in this state and
840 to persons outside the state who are authorized by law to purchase
841 the same * * *. Manufacturer's permits shall be of the following
842 classes:

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

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

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

855 (b) **Package retailer's permit.** Except as otherwise
856 provided in this paragraph, a package retailer's permit shall
857 authorize the holder thereof to operate a store exclusively for
858 the sale at retail in original sealed and unopened packages of
859 alcoholic beverages, including native wines, not to be consumed on
860 the premises where sold. Alcoholic beverages shall not be sold by
861 any retailer in any package or container containing less than
862 fifty (50) milliliters by liquid measure. In addition to the sale
863 at retail of packages of alcoholic beverages, the holder of a
864 package retailer's permit is authorized to sell at retail

865 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
866 other beverages commonly used to mix with alcoholic beverages.
867 Nonalcoholic beverages sold by the holder of a package retailer's
868 permit shall not be consumed on the premises where sold.

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

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

896 (e) **Native wine retailer's permit.** A native wine
897 retailer's permit shall be issued only to a holder of a Class 3

898 manufacturer's permit, and shall authorize the holder thereof to
899 make retail sales of native wines to consumers for on-premises
900 consumption or to consumers in originally sealed and unopened
901 containers at an establishment located on the premises of or in
902 the immediate vicinity of a native winery.

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

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

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

929 Class 2. A temporary permit, not to exceed seventy (70)
930 days, may be issued to prospective permittees seeking to transfer

931 a permit authorized in either paragraph (b) or (c) of this
932 section. A Class 2 permit may be issued only to applicants
933 demonstrating to the commission, by affidavit, that they meet the
934 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
935 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
936 commission, following a preliminary review of the affidavit and
937 the requirements of the applicable statutes and regulations, may
938 issue the permit.

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

947 (g) **Caterer's permit.** A caterer's permit shall permit
948 the purchase of alcoholic beverages by a person engaging in
949 business as a caterer and the resale of alcoholic beverages by
950 such person in conjunction with such catering business. No person
951 shall qualify as a caterer unless forty percent (40%) or more of
952 the revenue derived from such catering business shall be from the
953 serving of prepared food and not from the sale of alcoholic
954 beverages and unless such person has obtained a permit for such
955 business from the Department of Health. A caterer's permit shall
956 not authorize the sale of alcoholic beverages on the premises of
957 the person engaging in business as a caterer; however, the holder
958 of an on-premises retailer's permit may hold a caterer's permit.
959 All sales of alcoholic beverages by holders of a caterer's permit
960 shall be made at the location being catered by the caterer, and
961 such sales may be made only for consumption at the catered
962 location. Such sales shall be made pursuant to any other
963 conditions and restrictions which apply to sales made by

964 on-premises retail permittees. The holder of a caterer's permit
965 or his employees shall remain at the catered location as long as
966 alcoholic beverages are being sold pursuant to the permit issued
967 under this paragraph (g), and the permittee and employees at such
968 location shall each have personal identification cards issued by
969 the Alcoholic Beverage Control Division of the commission. No
970 unsold alcoholic beverages may be left at the catered location by
971 the permittee upon the conclusion of his business at that
972 location. Appropriate law enforcement officers and Alcoholic
973 Beverage Control Division personnel may enter a catered location
974 on private property in order to enforce laws governing the sale or
975 serving of alcoholic beverages.

976 (h) **Research Permit.** A research permit shall authorize
977 the holder thereof to operate a research facility for the
978 professional research of alcoholic beverages. Such permit shall
979 authorize the holder of the permit to import and purchase limited
980 amounts of alcoholic beverages from * * * importers, wineries,
981 distillers and distributors of alcoholic beverages for
982 professional research.

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

993 (j) **Alcoholic beverage distributor's permit.** An
994 alcoholic beverage distributor's permit shall authorize the holder
995 thereof to purchase for resale, to store and to distribute to
996 authorized permittees, alcoholic beverages. Such permit shall

997 entitle the holder thereof to purchase alcoholic beverages from
998 any manufacturer or importer for the purpose of resale in this
999 state to permittees that are authorized to sell alcoholic
1000 beverages at retail. The holder of an alcoholic beverage
1001 distributor's permit may transport alcoholic beverages into the
1002 State of Mississippi and store such alcoholic beverages in a
1003 private bonded warehouse of such permittee's choice for sale to
1004 permittees who are authorized to sell alcoholic beverages at
1005 retail. The holder of an alcoholic beverage distributor's permit
1006 may solicit orders for alcoholic beverages from any permittee that
1007 is authorized to sell alcoholic beverages at retail. Records of
1008 such orders shall be kept and maintained for a period of three (3)
1009 years after the order is taken and shall be subject to inspection
1010 by the division at any time without prior notice.

1011 (2) Except as otherwise provided in subsection (4) of this
1012 section, retail permittees may hold more than one (1) retail
1013 permit, at the discretion of the commission.

1014 (3) Except as otherwise provided in this subsection, no
1015 authority shall be granted to any person to manufacture, sell or
1016 store for sale any intoxicating liquor as specified in this
1017 chapter within four hundred (400) feet of any church, school,
1018 kindergarten or funeral home. However, within an area zoned
1019 commercial or business, such minimum distance shall be not less
1020 than one hundred (100) feet.

1021 A church or funeral home may waive the distance restrictions
1022 imposed in this subsection in favor of allowing issuance by the
1023 commission of a permit, pursuant to subsection (1) of this
1024 section, to authorize activity relating to the manufacturing, sale
1025 or storage of alcoholic beverages which would otherwise be
1026 prohibited under the minimum distance criterion. Such waiver
1027 shall be in written form from the owner, the governing body, or
1028 the appropriate officer of the church or funeral home having the

1029 authority to execute such a waiver, and the waiver shall be filed
1030 with and verified by the commission before becoming effective.

1031 The distance restrictions imposed in this subsection shall
1032 not apply to the sale or storage of alcoholic beverages at a bed
1033 and breakfast inn listed in the National Register of Historic
1034 Places.

1035 (4) No person, either individually or as a member of a firm,
1036 partnership or association, or as a stockholder, officer or
1037 director in a corporation, shall own or control any interest in
1038 more than one (1) package retailer's permit, nor shall such
1039 person's spouse, if living in the same household of such person,
1040 any relative of such person, if living in the same household of
1041 such person, or any other person living in the same household with
1042 such person own any interest in any other package retailer's
1043 permit.

1044 **SECTION 13.** Section 67-1-77, Mississippi Code of 1972, is
1045 amended as follows:

1046 67-1-77. (1) It shall be unlawful for the holder of a
1047 manufacturer's or wholesaler's permit, or anyone connected with
1048 the business of such holder, or for any other distiller, wine
1049 manufacturer, distributor, brewer, rectifier, blender or bottler,
1050 to have any financial interest in any premises upon which any
1051 alcoholic beverage is sold at retail by any permittee, or in the
1052 business conducted by such permittee; provided, however, the
1053 holder of a manufacturer's or wholesaler's permit may contract for
1054 the service of a representative in the area of governmental
1055 affairs on a part-time basis with a holder of an on-premises
1056 permit.

1057 (2) It shall also be unlawful for any such person, or anyone
1058 connected with his, its, or their business to lend any money or
1059 make any gift or offer any gratuity, to any retail permittee,
1060 except as authorized by regulations of the commission, to the
1061 holder of any retail permit issued under the provisions of this

1062 chapter. Except as above provided, no retail permittee shall
1063 accept, receive, or make use of any money or gift furnished by any
1064 such person, or become indebted to such person except for the
1065 purchase of alcoholic beverages.

1066 (3) The commission shall not prohibit the furnishing of
1067 advertising specialties, printed materials, or other things having
1068 nominal value to a retail permittee. This section shall not be
1069 construed to prohibit the possession by any person of advertising
1070 specialties, printed materials, or other things having nominal
1071 value furnished by a retail permittee.

1072 (4) Any person violating the provisions of this section
1073 shall, upon conviction, be punished by a fine of not more than
1074 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1075 than two (2) years, or by both such fine and imprisonment, in the
1076 discretion of the court.

1077 **SECTION 14.** Section 67-1-79, Mississippi Code of 1972, is
1078 amended as follows:

1079 67-1-79. * * * Each delivery of any alcoholic beverage to a
1080 retail permittee shall be accompanied by an invoice of sale or
1081 delivery slip which shall bear as its date the date of delivery of
1082 such alcoholic beverage.

1083 **SECTION 15.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,
1084 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the
1085 State Tax Commission to request the State Bond Commission to
1086 provide sufficient funds required to maintain an adequate
1087 alcoholic beverage inventory, require the State Tax Commission to
1088 purchase directly from the manufacturer, provide penalties for
1089 selling alcoholic beverages not identified as having been
1090 purchased by the commission, require distillers and distributors
1091 dealing with the State Tax Commission to register with the
1092 Secretary of State and require distillers having contracts with
1093 the State Tax Commission to file statements of salary expenses,
1094 are repealed.

1095 **SECTION 16.** This act shall take effect and be in force from
1096 and after July 1, 2004.