

By: Senator(s) Hewes

To: Finance

SENATE BILL NO. 2038

1 AN ACT TO AUTHORIZE THE HOLDERS OF PACKAGE RETAILER'S PERMITS
2 AND ON-PREMISES RETAILER'S PERMITS TO PURCHASE ALCOHOLIC BEVERAGES
3 FROM THE HOLDERS OF LIMITED DISTRIBUTION PERMITS ISSUED BY THE
4 STATE TAX COMMISSION IF THE BRAND OR TYPE OF ALCOHOLIC BEVERAGE
5 SOUGHT TO BE PURCHASED BY SUCH A PERMITTEE IS NORMALLY IN THE
6 INVENTORY KEPT BY THE COMMISSION BUT IS OUT OF STOCK, OR IS AN
7 ITEM THAT THE COMMISSION DOES NOT NORMALLY KEEP IN ITS INVENTORY;
8 TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-15, 27-71-21, 67-1-5,
9 67-1-9, 67-1-37, 67-1-41, 67-1-43, 67-1-45, 67-1-51 AND 67-1-77,
10 MISSISSIPPI CODE OF 1972, TO CREATE A LIMITED DISTRIBUTOR'S PERMIT
11 AND PROVIDE THE FEE FOR SUCH PERMIT; TO PROVIDE FOR THE COLLECTION
12 OF TAXES BY THE HOLDER OF SUCH A PERMIT ON ALCOHOLIC BEVERAGES HE
13 SELLS; TO AUTHORIZE THE TRANSPORT OF ALCOHOLIC BEVERAGES BY THE
14 HOLDER OF A LIMITED DISTRIBUTOR'S PERMIT; TO AUTHORIZE THE STORAGE
15 OF ALCOHOLIC BEVERAGES IN THIS STATE BY HOLDERS OF LIMITED
16 DISTRIBUTOR'S PERMITS; TO AUTHORIZE THE STATE TAX COMMISSION TO
17 ADOPT RULES AND REGULATIONS REGARDING THE LIMITED DISTRIBUTION OF
18 ALCOHOLIC BEVERAGES; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** If an alcoholic beverage product that the holder
21 of a package retailer's or on-premises retailer's permit is
22 seeking to purchase is not available from the State Tax Commission
23 at wholesale, such permittee may purchase such product from a
24 wholesaler or distributor who has a limited distributor's permit
25 from the State Tax Commission that authorizes such wholesaler or
26 distributor to sell alcoholic beverage products directly to such
27 permittees if the products are not available from the State Tax
28 Commission. For purposes of this section, an alcoholic beverage
29 product is not considered to be available from the State Tax
30 Commission only if:

31 (a) The brand or type of alcoholic beverage sought is
32 an item that the commission normally keeps in its inventory but is
33 out of stock at the time the order is made; or

34 (b) The brand or type of alcoholic beverage sought is
35 an item that the commission does not normally keep in its
36 inventory.

37 **SECTION 2.** Section 27-71-5, Mississippi Code of 1972, is
38 amended as follows:

39 27-71-5. (1) Upon each person approved for a permit under
40 the provisions of the Alcoholic Beverage Control Law and
41 amendments thereto, there is levied and imposed for each location
42 for the privilege of engaging and continuing in this state in the
43 business authorized by such permit, an annual privilege license
44 tax in the amount provided in the following schedule:

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

47 (b) Manufacturer's permit, Class 2, wine manufacturer
48 \$1,800.00

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

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

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

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

55 On purchases exceeding \$5,000.00 and for each additional
56 \$5,000.00, or fraction thereof..... \$ 225.00

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

60 On purchases exceeding \$5,000.00 and for each additional
61 \$5,000.00, or fraction thereof..... \$ 225.00

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

63 On purchases exceeding \$5,000.00 and for each additional
64 \$5,000.00, or fraction thereof..... \$ 225.00

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

67	(j) Solicitor's permit, regardless of any other	
68	provision of law, solicitor's permits shall be issued only in the	
69	discretion of the commission.....	\$ 100.00
70	(k) Filing fee for each application except for an	
71	employee identification card.....	\$ 25.00
72	(l) Temporary permit, Class 1, each.....	\$ 10.00
73	(m) Temporary permit, Class 2, each.....	\$ 50.00
74	On-premises purchases exceeding \$5,000.00 and for each	
75	additional \$5,000.00, or fraction thereof.....	\$ 225.00
76	(n) (i) Caterer's permit.....	\$ 600.00
77	On purchases exceeding \$5,000.00 and for each additional	
78	\$5,000.00, or fraction thereof.....	\$ 250.00
79	(ii) Caterer's permit for holders of on-premises	
80	retailer's permit.....	\$ 150.00
81	On purchases exceeding \$5,000.00 and for each additional	
82	\$5,000.00, or fraction thereof.....	\$ 250.00
83	(o) Research permit.....	\$ 100.00
84	(p) Filing fee for each application for an employee	
85	identification card.....	\$ 5.00
86	(q) <u>Limited distributor's permit.....</u>	<u>\$1,800.00</u>

87 In addition to the filing fee imposed by item (k) of this
88 subsection, a fee to be determined by the State Tax Commission may
89 be charged to defray costs incurred to process applications. Such
90 additional fees shall be paid into the State Treasury to the
91 credit of a special fund account, which is hereby created, and
92 expenditures therefrom shall be made only to defray the costs
93 incurred by the State Tax Commission in processing alcoholic
94 beverage applications. Any unencumbered balance remaining in the
95 special fund account on June 30 of any fiscal year shall lapse
96 into the State General Fund.

97 All privilege taxes herein imposed shall be paid in advance
98 of doing business. The additional privilege tax imposed for an

99 on-premises retailer's permit based upon purchases shall be due
100 and payable on demand.

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

108 (2) There is imposed and shall be collected from each
109 permittee, except a common carrier, solicitor, holder of an
110 employee identification card or a temporary permittee, by the
111 commission, an additional license tax equal to the amounts imposed
112 under subsection (1) of this section for the privilege of doing
113 business within any municipality or county in which the licensee
114 is located. If the licensee is located within a municipality, the
115 commission shall pay the amount of additional license tax to the
116 municipality, and if outside a municipality the commission shall
117 pay the additional license tax to the county in which the licensee
118 is located. Payments by the commission to the respective local
119 government subdivisions shall be made once each month for any
120 collections during the preceding month.

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

127 (4) The number of permits issued by the commission shall not
128 be restricted or limited on a population basis; however, the
129 foregoing limitation shall not be construed to preclude the right
130 of the commission to refuse to issue a permit because of the
131 undesirability of the proposed location.

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

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

147 **SECTION 3.** Section 27-71-7, Mississippi Code of 1972, is
148 amended as follows:

149 27-71-7. (1) There is hereby levied and assessed an excise
150 tax upon each case of alcoholic beverages sold by the commission
151 or the holder of a limited distributor's permit to be collected
152 from each retail licensee at the time of sale in accordance with
153 the following schedule:

- 154 (a) Distilled spirits..... \$2.50 per gallon
- 155 (b) Sparkling wine and champagne..... \$1.00 per gallon
- 156 (c) Other wines, including native
157 wines..... \$.35 per gallon

158 (2) (a) In addition to the tax levied by subsection (1) of
159 this section, and in addition to any other markup collected, the
160 Alcoholic Beverage Control Division or the holder of a limited
161 distributor's permit shall collect a markup of three percent (3%)
162 on all alcoholic beverages, as defined in Section 67-1-5,
163 Mississippi Code of 1972, which are sold by the division or the
164 holder of a limited distributor's permit. The proceeds of the

165 markup shall be collected by the division or the holder of a
166 limited distributor's permit from each purchaser at the time of
167 purchase.

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

187 From and after July 1, 1987, the revenue derived from this
188 three percent (3%) markup collected by the division and the
189 revenue remitted to the State Tax Commission pursuant to
190 subsection (3) of this section shall be deposited by the division
191 in the State Treasury to the credit of the "Mental Health Programs
192 Fund," a special fund which is hereby created in the State
193 Treasury and shall be used by the State Department of Mental
194 Health for the service programs of the department. Any revenue in
195 the "Alcoholism Treatment and Rehabilitation Fund" which is not
196 encumbered at the end of Fiscal Year 1987 shall be deposited to
197 the credit of the "Mental Health Programs Fund."

198 (3) The tax and markup provided for in subsections (1) and
199 (2) of this section shall be collected by the holder of a limited
200 distributor's permit on alcoholic beverages such permittee sells
201 and the proceeds of the tax that such permittee collects shall be
202 remitted to the State Tax Commission on or before the fifteenth
203 day of the month following the month in which the tax and markup
204 were collected.

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

207 27-71-15. Except as otherwise provided in Section 67-9-1 for
208 the transportation of limited amounts of alcoholic beverages for
209 the use of an alcohol processing permittee, if transportation
210 requires passage through a county which has not authorized the
211 sale of alcoholic beverages, such transportation shall be by a
212 sealed vehicle. Such seal shall remain unbroken until the vehicle
213 shall reach the place of business operated by the permittee. The
214 operator of any vehicle transporting alcoholic beverages shall
215 have in his possession an invoice issued by the commission or the
216 holder of a limited distributor's permit at the time of the
217 wholesale sale covering the merchandise transported by the
218 vehicle. The commission is authorized to issue regulations
219 controlling the transportation of alcoholic beverages.

220 When the restrictions imposed by this section and by the
221 regulation of the commission have not been violated, the person
222 transporting alcoholic beverages through a county wherein the sale
223 of alcoholic beverages is prohibited shall not be guilty of
224 unlawful possession and such merchandise shall be immune from
225 seizure.

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

228 27-71-21. Before any person shall engage in the business of
229 manufacturing, distributing or retailing of alcoholic beverages,
230 he may be required to enter into a bond payable to the State of

231 Mississippi, conditioned that he will conduct said business
232 strictly in accordance with the laws of the State of Mississippi,
233 and that he will comply with the rules and regulations prescribed
234 by the commission, and pay all taxes due the State of Mississippi.
235 The amount of a bond required of a manufacturer or distributor,
236 not including a producer of native wine, shall not exceed One
237 Hundred Thousand Dollars (\$100,000.00), and the amount required of
238 a retailer shall be Five Thousand Dollars (\$5,000.00). Provided,
239 however, any retailer whose check for purchase of merchandise or
240 payment of taxes shall be dishonored may be required by the
241 commission to post additional bond not to exceed Five Thousand
242 Dollars (\$5,000.00). Such bond shall be made in a surety company
243 authorized to do business in the State of Mississippi and shall be
244 approved by the commission. The commission shall be authorized to
245 institute suit in the proper court for any violation of the
246 condition of said bonds. The amount of the bond required of a
247 producer of native wine shall be Five Thousand Dollars
248 (\$5,000.00).

249 As an alternative to entering into a bond as required by this
250 section, any person who shall engage in the business of
251 manufacturing, distributing or retailing alcoholic beverages may,
252 subject to the same conditions of conduct required for bonds,
253 deposit with the State Treasurer the equivalent amount of the bond
254 required for that particular person in cash or securities. The
255 only securities allowable for this purpose are those which may
256 legally be purchased by a bank or for trust funds, having a market
257 value not less than that of the required bond. The commission
258 shall file notice with the Treasurer for any violation of the
259 conditions of the cash or security deposit.

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

262 67-1-5. For the purposes of this chapter and unless
263 otherwise required by the context:

264 (a) * * * "Alcoholic beverage" means any alcoholic
265 liquid, including wines of more than five percent (5%) of alcohol
266 by weight, capable of being consumed as a beverage by a human
267 being, but shall not include wine containing five percent (5%) or
268 less of alcohol by weight and shall not include beer containing
269 not more than five percent (5%) of alcohol by weight, as provided
270 for in Section 67-3-5, Mississippi Code of 1972, but shall include
271 native wines. The words "alcoholic beverage" shall not include
272 ethyl alcohol manufactured or distilled solely for fuel purposes.

273 (b) * * * "Alcohol" means the product of distillation
274 of any fermented liquid, whatever the origin thereof, and includes
275 synthetic ethyl alcohol, but does not include denatured alcohol or
276 wood alcohol.

277 (c) * * * "Distilled spirits" means any beverage
278 containing more than four percent (4%) of alcohol by weight
279 produced by distillation of fermented grain, starch, molasses or
280 sugar, including dilutions and mixtures of these beverages.

281 (d) * * * "Wine" or "vinous liquor" means any product
282 obtained from the alcoholic fermentation of the juice of sound,
283 ripe grapes, fruits or berries and made in accordance with the
284 revenue laws of the United States.

285 (e) * * * "Person" means and includes any individual,
286 partnership, corporation, association or other legal entity
287 whatsoever.

288 (f) * * * "Manufacturer" means any person engaged in
289 manufacturing, distilling, rectifying, blending or bottling any
290 alcoholic beverage.

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

295 (h) * * * "Retailer" means any person who sells,
296 distributes, or offers for sale or distribution, any alcoholic

297 beverage for use or consumption by the purchaser and not for
298 resale.

299 (i) * * * "Commission" means the State Tax Commission
300 of the State of Mississippi, which shall create a division in its
301 organization to be known as the Alcoholic Beverage Control
302 Division. Any reference to the commission hereafter means the
303 powers and duties of the State Tax Commission with reference to
304 supervision of the Alcoholic Beverage Control Division.

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

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

309 (l) * * * "Hotel" means an establishment within a
310 municipality, or within a qualified resort area approved as such
311 by the commission, where, in consideration of payment, food and
312 lodging are habitually furnished to travelers and wherein are
313 located at least twenty (20) adequately furnished and completely
314 separate sleeping rooms with adequate facilities that persons
315 usually apply for and receive as overnight accommodations. Hotels
316 in towns or cities of more than twenty-five thousand (25,000)
317 population are similarly defined except that they must have fifty
318 (50) or more sleeping rooms. Any such establishment described in
319 this paragraph with less than fifty (50) beds shall operate one or
320 more regular dining rooms designed to be constantly frequented by
321 customers each day. When used in this chapter, the word "hotel"
322 shall also be construed to include any establishment that meets
323 the definition of "bed and breakfast inn" as provided in this
324 section.

325 (m) * * * "Restaurant" means a place which is regularly
326 and in a bona fide manner used and kept open for the serving of
327 meals to guests for compensation, which has suitable seating
328 facilities for guests, and which has suitable kitchen facilities
329 connected therewith for cooking an assortment of foods and meals

330 commonly ordered at various hours of the day; the service of such
331 food as sandwiches and salads only shall not be deemed in
332 compliance with this requirement. No place shall qualify as a
333 restaurant under this chapter unless twenty-five percent (25%) or
334 more of the revenue derived from such place shall be from the
335 preparation, cooking and serving of meals and not from the sale of
336 beverages, or unless the value of food given to and consumed by
337 customers is equal to twenty-five percent (25%) or more of total
338 revenue.

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

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

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

345 (iii) Maintained by its members through the
346 payment of annual dues;

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

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

355 (vi) No member, officer, agent or employee of
356 which is paid, or directly or indirectly receives, in the form of
357 a salary or other compensation any profit from the distribution or
358 sale of alcoholic beverages to the club or to members or guests of
359 the club beyond such salary or compensation as may be fixed and
360 voted at a proper meeting by the board of directors or other
361 governing body out of the general revenues of the club.

362 The commission may, in its discretion, waive the five-year
363 provision of this paragraph. In order to qualify under this
364 paragraph, a club must file with the commission, at the time of
365 its application for a license under this chapter, two (2) copies
366 of a list of the names and residences of its members and similarly
367 file, within ten (10) days after the election of any additional
368 member, his name and address. Each club applying for a license
369 shall also file with the commission at the time of the application
370 a copy of its articles of association, charter of incorporation,
371 bylaws or other instruments governing the business and affairs
372 thereof.

373 (o) * * * "Qualified resort area" means any area or
374 locality outside of the limits of incorporated municipalities in
375 this state commonly known and accepted as a place which regularly
376 and customarily attracts tourists, vacationists and other
377 transients because of its historical, scenic or recreational
378 facilities or attractions, or because of other attributes which
379 regularly and customarily appeal to and attract tourists,
380 vacationists and other transients in substantial numbers; however,
381 no area or locality shall so qualify as a resort area until it has
382 been duly and properly approved as such by the commission.

383 (i) The commission may approve an area or locality
384 outside of the limits of an incorporated municipality that is in
385 the process of being developed as a qualified resort area if such
386 area or locality, when developed, can reasonably be expected to
387 meet the requisites of the definition of the term "qualified
388 resort area." In such a case, the status of qualified resort area
389 shall not take effect until completion of the development.

390 (ii) The term includes any state park which is
391 declared a resort area by the commission; however, such
392 declaration may only be initiated in a written request for resort
393 area status made to the commission by the Executive Director of
394 the Department of Wildlife, Fisheries and Parks, and no permit for

395 the sale of any alcoholic beverage, as defined in this chapter,
396 except an on-premises retailer's permit, shall be issued for a
397 hotel, restaurant or bed and breakfast inn in such park.

398 (iii) The term includes the clubhouses associated
399 with the state park golf courses at the Lefleur's Bluff State
400 Park, the John Kyle State Park, the Percy Quin State Park and the
401 Hugh White State Park. The status of these clubhouses as
402 qualified resort areas does not require any declaration of same by
403 the commission.

404 (p) * * * "Native wine" means any product, produced in
405 Mississippi for sale, having an alcohol content not to exceed
406 twenty-one percent (21%) by weight and made in accordance with
407 revenue laws of the United States, which shall be obtained
408 primarily from the alcoholic fermentation of the juice of ripe
409 grapes, fruits, berries or vegetables grown and produced in
410 Mississippi; provided that bulk, concentrated or fortified wines
411 used for blending may be produced without this state and used in
412 producing native wines. The commission shall adopt and promulgate
413 rules and regulations to permit a producer to import such bulk
414 and/or fortified wines into this state for use in blending with
415 native wines without payment of any excise tax that would
416 otherwise accrue thereon.

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

420 (r) * * * "Bed and breakfast inn" means an
421 establishment within a municipality where in consideration of
422 payment, breakfast and lodging are habitually furnished to
423 travelers and wherein are located not less than eight (8) and not
424 more than nineteen (19) adequately furnished and completely
425 separate sleeping rooms with adequate facilities, that persons
426 usually apply for and receive as overnight accommodations;
427 however, such restriction on the minimum number of sleeping rooms

428 shall not apply to establishments on the National Register of
429 Historic Places. No place shall qualify as a bed and breakfast
430 inn under this chapter unless on the date of the initial
431 application for a license under this chapter more than fifty
432 percent (50%) of the sleeping rooms are located in a structure
433 formerly used as a residence.

434 (s) "Limited distributor" means a person who is
435 authorized to distribute alcoholic beverages pursuant to Section 1
436 of Senate Bill No. 2038, 2004 Regular Session.

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

439 67-1-9. (1) It shall be unlawful for any person to
440 manufacture, distill, brew, sell, possess, import into this state,
441 export from the state, transport, distribute, warehouse, store,
442 solicit, take order for, bottle, rectify, blend, treat, mix or
443 process any alcoholic beverage except as authorized in this
444 chapter. However, nothing contained herein shall prevent
445 importers, wineries and distillers of alcoholic beverages from
446 storing such alcoholic beverages in private bonded warehouses
447 located within the State of Mississippi for the ultimate use and
448 benefit of the State Tax Commission as provided in Section
449 67-1-41, and nothing contained herein shall prohibit the holder of
450 a limited distributor's permit from storing alcoholic beverages in
451 Mississippi for resale as authorized in Section 1 of Senate Bill
452 No. 2038, 2004 Regular Session. The commission is hereby
453 authorized to promulgate rules and regulations for the
454 establishment of such private bonded warehouses and for the
455 control of alcoholic beverages stored in such warehouses.
456 Additionally, nothing herein contained shall prevent any duly
457 licensed practicing physician or dentist from possessing or using
458 alcoholic liquor in the strict practice of his profession, or
459 prevent any hospital or other institution caring for sick and
460 diseased persons, from possessing and using alcoholic liquor for

461 the treatment of bona fide patients of such hospital or other
462 institution. Any drugstore employing a licensed pharmacist may
463 possess and use alcoholic liquors in the combination of
464 prescriptions of duly licensed physicians. The possession and
465 dispensation of wine by an authorized representative of any church
466 for the purpose of conducting any bona fide rite or religious
467 ceremony conducted by such church shall not be prohibited by this
468 chapter.

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

471 (a) By a fine of not less than One Hundred Dollars
472 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
473 imprisonment in the county jail not less than one (1) week nor
474 more than three (3) months, or both, for the first conviction
475 under this section.

476 (b) By a fine of not less than One Hundred Dollars
477 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
478 imprisonment in the county jail not less than sixty (60) days, nor
479 more than six (6) months, or both fine and imprisonment, for the
480 second conviction for violating this section.

481 (c) By a fine of not less than One Hundred Dollars
482 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
483 imprisonment in the State Penitentiary not less than one (1) year,
484 nor more than five (5) years, or both fine and imprisonment, for
485 conviction the third time under this section for the violation
486 thereof after having been twice convicted of its violation.

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

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

490 67-1-37. The State Tax Commission, under its duties and
491 powers with respect to the Alcoholic Beverage Control Division
492 therein, shall have the following powers, functions and duties:

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

497 (b) To revoke, suspend or cancel, for violation of or
498 noncompliance with the provisions of this chapter, or the law
499 governing the production and sale of native wines, or any lawful
500 rules and regulations of the commission issued hereunder, or for
501 other sufficient cause, any permit issued by it under the
502 provisions of this chapter; however, no such permit shall be
503 revoked, suspended or cancelled except after a hearing of which
504 the permit holder shall have been given reasonable notice and an
505 opportunity to be heard. The commission shall be authorized to
506 suspend the permit of any permit holder for being out of
507 compliance with an order for support, as defined in Section
508 93-11-153. The procedure for suspension of a permit for being out
509 of compliance with an order for support, and the procedure for the
510 reissuance or reinstatement of a permit suspended for that
511 purpose, and the payment of any fees for the reissuance or
512 reinstatement of a permit suspended for that purpose, shall be
513 governed by Section 93-11-157 or Section 93-11-163, as the case
514 may be. If there is any conflict between any provision of Section
515 93-11-157 or Section 93-11-163 and any provision of this chapter,
516 the provisions of Section 93-11-157 or Section 93-11-163, as the
517 case may be, shall control.

518 (c) To prescribe forms of permits and applications for
519 permits and of all reports which it deems necessary in
520 administering this chapter.

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

525 (e) To issue rules regulating the advertising of
526 alcoholic beverages in the state in any class of media and
527 permitting advertising of the retail price of alcoholic beverages.

528 (f) To issue reasonable rules and regulations, not
529 inconsistent with the federal laws or regulations, requiring
530 informative labeling of all alcoholic beverages offered for sale
531 within this state and providing for the standards of fill and
532 shapes of retail containers of alcoholic beverages; however, such
533 containers shall not contain less than fifty (50) milliliters by
534 liquid measure.

535 (g) Subject to the provisions of * * * Section
536 67-1-51(3), to issue rules and regulations governing the issuance
537 of retail permits for premises located near or around schools,
538 colleges, universities, churches and other public institutions,
539 and specifying the distances therefrom within which no such permit
540 shall be issued. The Alcoholic Beverage Control Division shall
541 not allow the sale or consumption of alcoholic beverages in or on
542 the campus of any public school or college, and no alcoholic
543 beverage shall be for sale or consumed at any public athletic
544 event at any grammar or high school or any college.

545 (h) To adopt and promulgate, repeal and amend, such
546 rules, regulations, standards, requirements and orders, not
547 inconsistent with this chapter or any law of this state or of the
548 United States, as it deems necessary to control the manufacture,
549 importation, transportation, distribution and sale of alcoholic
550 liquor, whether intended for beverage or nonbeverage use in a
551 manner not inconsistent with the provisions of this chapter or any
552 other statute, including the native wine laws.

553 (i) To call upon other administrative departments of
554 the state, county and municipal governments, county and city
555 police departments and upon prosecuting officers for such
556 information and assistance as it may deem necessary in the
557 performance of its duties.

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

564 (k) To inspect, or cause to be inspected, any premises
565 where alcoholic liquors intended for sale are manufactured,
566 stored, distributed or sold, and to examine or cause to be
567 examined all books and records pertaining to the business
568 conducted therein.

569 (l) In the conduct of any hearing authorized to be held
570 by the commission, to hear testimony and take proof material for
571 its information in the discharge of its duties under this chapter;
572 to issue subpoenas, which shall be effective in any part of this
573 state, requiring the attendance of witnesses and the production of
574 books and records; to administer or cause to be administered
575 oaths; and to examine or cause to be examined any witness under
576 oath. Any court of record, or any judge thereof, may by order
577 duly entered require the attendance of witnesses and the
578 production of relevant books subpoenaed by the commission, and
579 such court or judge may compel obedience to its or his order by
580 proceedings for contempt.

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

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

589 (o) To assign employees to posts of duty at locations
590 where they will be most beneficial for the control of alcoholic

591 beverages, to remove, to dismiss, to suspend without pay, to act
592 as a trial board in hearings based upon charges against employees.
593 After twelve (12) months' service, no employee shall be removed,
594 dismissed, demoted or suspended without just cause and only after
595 being furnished with reasons for such removal, dismissal, demotion
596 or suspension, and upon request given a hearing in his own
597 defense.

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

601 (q) To adopt and promulgate rules and regulations for
602 suspension or revocation of identification cards of employees of
603 permittees for violations of the alcoholic beverage control laws,
604 rules or regulations.

605 (r) To enforce the provisions made unlawful by Sections
606 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

607 (s) To adopt rules and regulations governing the
608 limited distribution of alcoholic beverages pursuant to Section 1
609 of Senate Bill No.____, 2004 Regular Session.

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

612 67-1-37. The State Tax Commission, under its duties and
613 powers with respect to the Alcoholic Beverage Control Division
614 therein, shall have the following powers, functions and duties:

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

619 (b) To revoke, suspend or cancel, for violation of or
620 noncompliance with the provisions of this chapter, or the law
621 governing the production and sale of native wines, or any lawful
622 rules and regulations of the commission issued hereunder, or for
623 other sufficient cause, any permit issued by it under the

624 provisions of this chapter; however, no such permit shall be
625 revoked, suspended or cancelled except after a hearing of which
626 the permit holder shall have been given reasonable notice and an
627 opportunity to be heard. The commission shall be authorized to
628 suspend the permit of any permit holder for being out of
629 compliance with an order for support, as defined in Section
630 93-11-153. The procedure for suspension of a permit for being out
631 of compliance with an order for support, and the procedure for the
632 reissuance or reinstatement of a permit suspended for that
633 purpose, and the payment of any fees for the reissuance or
634 reinstatement of a permit suspended for that purpose, shall be
635 governed by Section 93-11-157 or 93-11-163, as the case may be.
636 If there is any conflict between any provision of Section
637 93-11-157 or 93-11-163 and any provision of this chapter, the
638 provisions of Section 93-11-157 or 93-11-163, as the case may be,
639 shall control.

640 (c) To prescribe forms of permits and applications for
641 permits and of all reports which it deems necessary in
642 administering this chapter.

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

647 (e) To issue rules regulating the advertising of
648 alcoholic beverages in the state in any class of media and
649 permitting advertising of the retail price of alcoholic beverages.

650 (f) To issue reasonable rules and regulations, not
651 inconsistent with the federal laws or regulations, requiring
652 informative labeling of all alcoholic beverages offered for sale
653 within this state and providing for the standards of fill and
654 shapes of retail containers of alcoholic beverages; however, such
655 containers shall not contain less than fifty (50) milliliters by
656 liquid measure.

657 (g) Subject to the provisions of * * * Section
658 67-1-51(3), to issue rules and regulations governing the issuance
659 of retail permits for premises located near or around schools,
660 colleges, universities, churches and other public institutions,
661 and specifying the distances therefrom within which no such permit
662 shall be issued. The Alcoholic Beverage Control Division shall
663 not allow the sale or consumption of alcoholic beverages in or on
664 the campus of any public school or college, and no alcoholic
665 beverage shall be for sale or consumed at any public athletic
666 event at any grammar or high school or any college.

667 (h) To adopt and promulgate, repeal and amend, such
668 rules, regulations, standards, requirements and orders, not
669 inconsistent with this chapter or any law of this state or of the
670 United States, as it deems necessary to control the manufacture,
671 importation, transportation, distribution and sale of alcoholic
672 liquor, whether intended for beverage or nonbeverage use in a
673 manner not inconsistent with the provisions of this chapter or any
674 other statute, including the native wine laws.

675 (i) To call upon other administrative departments of
676 the state, county and municipal governments, county and city
677 police departments and upon prosecuting officers for such
678 information and assistance as it may deem necessary in the
679 performance of its duties.

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

686 (k) To inspect, or cause to be inspected, any premises
687 where alcoholic liquors intended for sale are manufactured,
688 stored, distributed or sold, and to examine or cause to be

689 examined all books and records pertaining to the business
690 conducted therein.

691 (l) In the conduct of any hearing authorized to be held
692 by the commission, to hear testimony and take proof material for
693 its information in the discharge of its duties under this chapter;
694 to issue subpoenas, which shall be effective in any part of this
695 state, requiring the attendance of witnesses and the production of
696 books and records; to administer or cause to be administered
697 oaths; and to examine or cause to be examined any witness under
698 oath. Any court of record, or any judge thereof, may by order
699 duly entered require the attendance of witnesses and the
700 production of relevant books subpoenaed by the commission, and
701 such court or judge may compel obedience to its or his order by
702 proceedings for contempt.

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

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

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

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

723 (q) To adopt and promulgate rules and regulations for
724 suspension or revocation of identification cards of employees of
725 permittees for violations of the alcoholic beverage control laws,
726 rules or regulations.

727 (r) To adopt rules and regulations governing the
728 limited distribution of alcoholic beverages pursuant to Section 1
729 of Senate Bill No. _____, 2004 Regular Session.

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

732 67-1-41. (1) Except as otherwise provided in Section 1 of
733 Senate Bill No. 2038, 2004 Regular Session, the State Tax
734 Commission is hereby created a wholesale distributor and seller of
735 alcoholic beverages, not including malt liquors, within the State
736 of Mississippi. Except as otherwise provided in Section 1 of
737 Senate Bill No. 2038, 2004 Regular Session, it is granted the sole
738 right to import and sell such intoxicating liquors at wholesale
739 within the state, and no person who is granted the right to sell,
740 distribute or receive such liquors at retail shall purchase any
741 such intoxicating liquors from any source other than the
742 commission except as authorized in subsections (4) and (9) of this
743 section and Section 1 of Senate Bill No. 2038, 2004 Regular
744 Session, provided that retailers and consumers may purchase native
745 wines directly from the producer. The commission may establish
746 warehouses, purchase intoxicating liquors in such quantities and
747 from such sources as it may deem desirable and sell the same to
748 authorized permittees within the state including, at the
749 discretion of the commission, any retail distributors operating
750 within any military post or qualified resort areas within the
751 boundaries of the state, keeping a correct and accurate record of
752 all such transactions and exercising such control over the

753 distribution of alcoholic beverages as seem right and proper in
754 keeping with the provisions or purposes of this chapter.

755 The commission is empowered to borrow such working capital as
756 may be required, not to exceed the sum of Nine Hundred Thousand
757 Dollars (\$900,000.00). Such loan shall be repaid from the
758 earnings of the wholesale liquor business.

759 The commission is hereby authorized to use and to promulgate
760 rules for the affixing of identification stamps to each container
761 of alcoholic liquor.

762 (2) No person for the purpose of sale shall manufacture,
763 distill, brew, sell, possess, export, transport, distribute,
764 warehouse, store, solicit, take orders for, bottle, rectify,
765 blend, treat, mix or process any alcoholic beverage except in
766 accordance with authority granted under this chapter, or as
767 otherwise provided by law for native wines.

768 (3) No alcoholic beverage intended for sale or resale shall
769 be imported, shipped or brought into this state for delivery to
770 any person other than as provided in this chapter, or as otherwise
771 provided by law for native wines.

772 (4) The commission may promulgate rules and regulations
773 which authorize on-premises retailers to purchase limited amounts
774 of alcoholic beverages from package retailers and for package
775 retailers to purchase limited amounts of alcoholic beverages from
776 other package retailers. The commission shall develop and provide
777 forms to be completed by the on-premises retailers and the package
778 retailers verifying the transaction. The completed forms shall be
779 forwarded to the commission within a period of time prescribed by
780 the commission.

781 (5) The commission may promulgate rules which authorize the
782 holder of a package retailer's permit to permit individual retail
783 purchasers of packages of alcoholic beverages to return, for
784 exchange, credit or refund, limited amounts of original sealed and

785 unopened packages of alcoholic beverages purchased by such
786 individual from the package retailer.

787 (6) The commission shall maintain all forms to be completed
788 by applicants necessary for licensure by the commission at all
789 district offices of the commission.

790 (7) The commission may promulgate rules which authorize the
791 manufacturer of an alcoholic beverage or wine to import, transport
792 and furnish or give a sample of alcoholic beverages or wines to
793 the holders of package retailer's permits, on-premises retailer's
794 permits, native wine retailer's permits and temporary retailer's
795 permits who have not previously purchased the brand of that
796 manufacturer from the commission. For each holder of the
797 designated permits, the manufacturer may furnish not more than
798 five hundred (500) milliliters of any brand of alcoholic beverage
799 and not more than three (3) liters of any brand of wine.

800 (8) The commission may promulgate rules disallowing open
801 product sampling of alcoholic beverages or wines by the holders of
802 package retailer's permits and permitting open product sampling of
803 alcoholic beverages by the holders of on-premises retailer's
804 permits. Permitted sample products shall be plainly identified
805 "sample" and the actual sampling must occur in the presence of the
806 manufacturer's representatives during the legal operating hours of
807 on-premises retailers.

808 (9) The commission may promulgate rules and regulations that
809 authorize the holder of a research permit to import and purchase
810 limited amounts of alcoholic beverages from importers, wineries
811 and distillers of alcoholic beverages or from the commission. The
812 commission shall develop and provide forms to be completed by the
813 research permittee verifying each transaction. The completed
814 forms shall be forwarded to the commission within a period of time
815 prescribed by the commission. The records and inventory of
816 alcoholic beverages shall be open to inspection at any time by the

817 Director of the Alcoholic Beverage Control Division or any duly
818 authorized agent.

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

821 67-1-43. Any authorized retail distributor who shall
822 purchase or receive intoxicating liquor from any source except
823 from the commission or the holder of a limited distributor's
824 permit, unless authorized by rules and regulations of the
825 commission promulgated under subsection (4) of Section 67-1-41,
826 shall be guilty of a misdemeanor and upon conviction thereof shall
827 be punished by a fine of not less than Five Hundred Dollars
828 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to
829 which may be added imprisonment in the county jail for not more
830 than six (6) months. Any authorization of such person to sell
831 intoxicating beverages may be revoked as provided by law.

832 This section shall not apply to any authorized retail
833 distributor who shall purchase native wines directly from the
834 producer.

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

837 67-1-45. Except as otherwise authorized in Section 1 of
838 Senate Bill No. 2038, 2004 Regular Session, no manufacturer,
839 rectifier, or distiller of intoxicating liquor shall sell or
840 attempt to sell any such intoxicating liquor, except malt liquor,
841 within the State of Mississippi, except to the commission, or to
842 the holder of a research permit as provided in Section 67-1-41.
843 However, a producer of native wine may sell native wines to the
844 commission, authorized retail distributor, or directly to
845 consumers.

846 Any violation of this section by any manufacturer, rectifier,
847 or distiller shall be punished by a fine of not less than Five
848 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars

849 (\$2,000.00), to which may be added imprisonment in the county jail
850 not to exceed six (6) months.

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

853 67-1-51. (1) Permits which may be issued by the commission
854 shall be as follows:

855 (a) **Manufacturer's permit.** A manufacturer's permit
856 shall permit the manufacture, importation in bulk, bottling and
857 storage of alcoholic liquor and its distribution and sale to
858 manufacturers holding permits under this chapter in this state and
859 to persons outside the state who are authorized by law to purchase
860 the same, and to sell exclusively to the commission.

861 Manufacturer's permits shall be of the following classes:

862 Class 1. Distiller's and/or rectifier's permit, which
863 shall authorize the holder thereof to operate a distillery for the
864 production of distilled spirits by distillation or redistillation
865 and/or to operate a rectifying plant for the purifying, refining,
866 mixing, blending, flavoring or reducing in proof of distilled
867 spirits and alcohol.

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

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

874 (b) **Package retailer's permit.** Except as otherwise
875 provided in this paragraph, a package retailer's permit shall
876 authorize the holder thereof to operate a store exclusively for
877 the sale at retail in original sealed and unopened packages of
878 alcoholic beverages, including native wines, not to be consumed on
879 the premises where sold. Alcoholic beverages shall not be sold by
880 any retailer in any package or container containing less than
881 fifty (50) milliliters by liquid measure. In addition to the sale

882 at retail of packages of alcoholic beverages, the holder of a
883 package retailer's permit is authorized to sell at retail
884 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
885 other beverages commonly used to mix with alcoholic beverages.
886 Nonalcoholic beverages sold by the holder of a package retailer's
887 permit shall not be consumed on the premises where sold.

888 (c) **On-premises retailer's permit.** An on-premises
889 retailer's permit shall authorize the sale of alcoholic beverages,
890 including native wines, for consumption on the licensed premises
891 only. Such a permit shall issue only to qualified hotels,
892 restaurants and clubs, and to common carriers with adequate
893 facilities for serving passengers. In resort areas, whether
894 inside or outside of a municipality, the commission may, in its
895 discretion, issue on-premises retailer's permits to such
896 establishments as it deems proper. An on-premises retailer's
897 permit when issued to a common carrier shall authorize the sale
898 and serving of alcoholic beverages aboard any licensed vehicle
899 while moving through any county of the state; however, the sale of
900 such alcoholic beverages shall not be permitted while such vehicle
901 is stopped in a county that has not legalized such sales.

902 (d) **Solicitor's permit.** A solicitor's permit shall
903 authorize the holder thereof to act as salesman for a manufacturer
904 or wholesaler holding a proper permit, to solicit on behalf of his
905 employer orders for alcoholic beverages, and to otherwise promote
906 his employer's products in a legitimate manner. Such a permit
907 shall authorize the representation of and employment by one (1)
908 principal only. However, the permittee may also, in the
909 discretion of the commission, be issued additional permits to
910 represent other principals. No such permittee shall buy or sell
911 alcoholic beverages for his own account, and no such beverage
912 shall be brought into this state in pursuance of the exercise of
913 such permit otherwise than through a permit issued to a wholesaler
914 or manufacturer in the state.

915 (e) **Native wine retailer's permit.** A native wine
916 retailer's permit shall be issued only to a holder of a Class 3
917 manufacturer's permit, and shall authorize the holder thereof to
918 make retail sales of native wines to consumers for on-premises
919 consumption or to consumers in originally sealed and unopened
920 containers at an establishment located on the premises of or in
921 the immediate vicinity of a native winery.

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

926 Temporary retailer's permits shall be of the following
927 classes:

928 Class 1. A temporary one-day permit may be issued to bona
929 fide nonprofit civic or charitable organizations authorizing the
930 sale of alcoholic beverages, including native wine, for
931 consumption on the premises described in the temporary permit
932 only. Class 1 permits may be issued only to applicants
933 demonstrating to the commission, by affidavit submitted ten (10)
934 days prior to the proposed date or such other time as the
935 commission may determine, that they meet the qualifications of
936 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
937 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
938 obtain all alcoholic beverages from package retailers located in
939 the county in which the temporary permit is issued. Alcoholic
940 beverages remaining in stock upon expiration of the temporary
941 permit may be returned by the permittee to the package retailer
942 for a refund of the purchase price upon consent of the package
943 retailer or may be kept by the permittee exclusively for personal
944 use and consumption, subject to all laws pertaining to the illegal
945 sale and possession of alcoholic beverages. The commission,
946 following review of the affidavit and the requirements of the
947 applicable statutes and regulations, may issue the permit.

948 Class 2. A temporary permit, not to exceed seventy (70)
949 days, may be issued to prospective permittees seeking to transfer
950 a permit authorized in either paragraph (b) or (c) of this
951 section. A Class 2 permit may be issued only to applicants
952 demonstrating to the commission, by affidavit, that they meet the
953 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
954 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
955 commission, following a preliminary review of the affidavit and
956 the requirements of the applicable statutes and regulations, may
957 issue the permit.

958 Class 2 temporary permittees must purchase their alcoholic
959 beverages directly from the commission or, with approval of the
960 commission, purchase the remaining stock of the previous
961 permittee. If the proposed applicant of a Class 1 or Class 2
962 temporary permit falsifies information contained in the
963 application or affidavit, the applicant shall never again be
964 eligible for a retail alcohol beverage permit and shall be subject
965 to prosecution for perjury.

966 (g) **Caterer's permit.** A caterer's permit shall permit
967 the purchase of alcoholic beverages by a person engaging in
968 business as a caterer and the resale of alcoholic beverages by
969 such person in conjunction with such catering business. No person
970 shall qualify as a caterer unless forty percent (40%) or more of
971 the revenue derived from such catering business shall be from the
972 serving of prepared food and not from the sale of alcoholic
973 beverages and unless such person has obtained a permit for such
974 business from the Department of Health. A caterer's permit shall
975 not authorize the sale of alcoholic beverages on the premises of
976 the person engaging in business as a caterer; however, the holder
977 of an on-premises retailer's permit may hold a caterer's permit.
978 All sales of alcoholic beverages by holders of a caterer's permit
979 shall be made at the location being catered by the caterer, and
980 such sales may be made only for consumption at the catered

981 location. Such sales shall be made pursuant to any other
982 conditions and restrictions which apply to sales made by
983 on-premises retail permittees. The holder of a caterer's permit
984 or his employees shall remain at the catered location as long as
985 alcoholic beverages are being sold pursuant to the permit issued
986 under this paragraph (g), and the permittee and employees at such
987 location shall each have personal identification cards issued by
988 the Alcoholic Beverage Control Division of the commission. No
989 unsold alcoholic beverages may be left at the catered location by
990 the permittee upon the conclusion of his business at that
991 location. Appropriate law enforcement officers and Alcoholic
992 Beverage Control Division personnel may enter a catered location
993 on private property in order to enforce laws governing the sale or
994 serving of alcoholic beverages.

995 (h) **Research Permit.** A research permit shall authorize
996 the holder thereof to operate a research facility for the
997 professional research of alcoholic beverages. Such permit shall
998 authorize the holder of the permit to import and purchase limited
999 amounts of alcoholic beverages from the commission or from
1000 importers, wineries and distillers of alcoholic beverages for
1001 professional research.

1002 (i) **Alcohol processing permit.** An alcohol processing
1003 permit shall authorize the holder thereof to purchase, transport
1004 and possess alcoholic beverages for the exclusive use in cooking,
1005 processing or manufacturing products which contain alcoholic
1006 beverages as an integral ingredient. An alcohol processing permit
1007 shall not authorize the sale of alcoholic beverages on the
1008 premises of the person engaging in the business of cooking,
1009 processing or manufacturing products which contain alcoholic
1010 beverages. The amounts of alcoholic beverages allowed under an
1011 alcohol processing permit shall be set by the commission.

1012 (j) **Limited distributor's permit.** A limited
1013 distributor's permit shall authorize the holder thereof to

1014 purchase for resale, to store, to transport and to distribute
1015 alcoholic beverages for the limited purposes authorized in Section
1016 1 of Senate Bill No. 2038, 2004 Regular Session. Records of any
1017 order taken by the holder of a limited distributor's permit shall
1018 be kept and maintained for a period of three (3) years after the
1019 order is taken and shall be subject to inspection by the division
1020 at any time without prior notice.

1021 (2) Except as otherwise provided in subsection (4) of this
1022 section, retail permittees may hold more than one (1) retail
1023 permit, at the discretion of the commission.

1024 (3) Except as otherwise provided in this subsection, no
1025 authority shall be granted to any person to manufacture, sell or
1026 store for sale any intoxicating liquor as specified in this
1027 chapter within four hundred (400) feet of any church, school,
1028 kindergarten or funeral home. However, within an area zoned
1029 commercial or business, such minimum distance shall be not less
1030 than one hundred (100) feet.

1031 A church or funeral home may waive the distance restrictions
1032 imposed in this subsection in favor of allowing issuance by the
1033 commission of a permit, pursuant to subsection (1) of this
1034 section, to authorize activity relating to the manufacturing, sale
1035 or storage of alcoholic beverages which would otherwise be
1036 prohibited under the minimum distance criterion. Such waiver
1037 shall be in written form from the owner, the governing body, or
1038 the appropriate officer of the church or funeral home having the
1039 authority to execute such a waiver, and the waiver shall be filed
1040 with and verified by the commission before becoming effective.

1041 The distance restrictions imposed in this subsection shall
1042 not apply to the sale or storage of alcoholic beverages at a bed
1043 and breakfast inn listed in the National Register of Historic
1044 Places.

1045 (4) No person, either individually or as a member of a firm,
1046 partnership or association, or as a stockholder, officer or

1047 director in a corporation, shall own or control any interest in
1048 more than one (1) package retailer's permit, nor shall such
1049 person's spouse, if living in the same household of such person,
1050 any relative of such person, if living in the same household of
1051 such person, or any other person living in the same household with
1052 such person own any interest in any other package retailer's
1053 permit.

1054 **SECTION 13.** Section 67-1-77, Mississippi Code of 1972, is
1055 amended as follows:

1056 67-1-77. (1) It shall be unlawful for the holder of a
1057 manufacturer's, limited distributor's or wholesaler's permit, or
1058 anyone connected with the business of such holder, or for any
1059 other distiller, wine manufacturer, brewer, rectifier, blender, or
1060 bottler, to have any financial interest in any premises upon which
1061 any alcoholic beverage is sold at retail by any permittee, or in
1062 the business conducted by such permittee; provided, however, the
1063 holder of a manufacturer's or wholesaler's permit may contract for
1064 the service of a representative in the area of governmental
1065 affairs on a part-time basis with a holder of an on-premises
1066 permit.

1067 (2) It shall also be unlawful for any such person, or anyone
1068 connected with his, its, or their business to lend any money or
1069 make any gift or offer any gratuity, to any retail permittee,
1070 except as authorized by regulations of the commission, to the
1071 holder of any retail permit issued under the provisions of this
1072 chapter. Except as above provided, no retail permittee shall
1073 accept, receive, or make use of any money or gift furnished by any
1074 such person, or become indebted to such person except for the
1075 purchase of alcoholic beverages.

1076 (3) The commission shall not prohibit the furnishing of
1077 advertising specialties, printed materials, or other things having
1078 nominal value to a retail permittee. This section shall not be
1079 construed to prohibit the possession by any person of advertising

1080 specialties, printed materials, or other things having nominal
1081 value furnished by a retail permittee.

1082 (4) Any person violating the provisions of this section
1083 shall, upon conviction, be punished by a fine of not more than
1084 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1085 than two (2) years, or by both such fine and imprisonment, in the
1086 discretion of the court.

1087 **SECTION 14.** This act shall take effect and be in force from
1088 and after July 1, 2004.