

By: Senator(s) Albritton

To: Finance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2421

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE HOLDER OF AN ON-PREMISES RETAILER'S PERMIT TO SELL  
3 DRINKS CONTAINING ALCOHOLIC BEVERAGES THAT ARE MIXED ON THE  
4 LICENSED PREMISES FOR CONSUMPTION OFF THE LICENSED PREMISES IF  
5 SUCH DRINKS ARE SOLD IN A SEALED CONTAINER OF A DESIGN APPROVED BY  
6 THE STATE TAX COMMISSION; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 67-1-51, Mississippi Code of 1972, is  
9 amended as follows:

10 [Through June 30, 2006, this section shall read as follows:]

11 67-1-51. (1) Permits which may be issued by the commission  
12 shall be as follows:

13 (a) **Manufacturer's permit.** A manufacturer's permit  
14 shall permit the manufacture, importation in bulk, bottling and  
15 storage of alcoholic liquor and its distribution and sale to  
16 manufacturers holding permits under this chapter in this state and  
17 to persons outside the state who are authorized by law to purchase  
18 the same, and to sell exclusively to the commission.

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

20 Class 1. Distiller's and/or rectifier's permit, which  
21 shall authorize the holder thereof to operate a distillery for the  
22 production of distilled spirits by distillation or redistillation  
23 and/or to operate a rectifying plant for the purifying, refining,  
24 mixing, blending, flavoring or reducing in proof of distilled  
25 spirits and alcohol.

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

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

32           (b) **Package retailer's permit.** Except as otherwise  
33 provided in this paragraph, a package retailer's permit shall  
34 authorize the holder thereof to operate a store exclusively for  
35 the sale at retail in original sealed and unopened packages of  
36 alcoholic beverages, including native wines, not to be consumed on  
37 the premises where sold. Alcoholic beverages shall not be sold by  
38 any retailer in any package or container containing less than  
39 fifty (50) milliliters by liquid measure. In addition to the sale  
40 at retail of packages of alcoholic beverages, the holder of a  
41 package retailer's permit is authorized to sell at retail  
42 corkscrews, wine glasses, soft drinks, ice, juices, mixers and  
43 other beverages commonly used to mix with alcoholic beverages.  
44 Nonalcoholic beverages sold by the holder of a package retailer's  
45 permit shall not be consumed on the premises where sold.

46           (c) **On-premises retailer's permit.** An on-premises  
47 retailer's permit shall authorize the sale of alcoholic beverages,  
48 including native wines, for consumption on the licensed premises  
49 only; however, the holder of an on-premises retailer's permit may  
50 sell drinks containing alcoholic beverages that are mixed on the  
51 licensed premises for consumption off the licensed premises if  
52 such drinks are sold in a sealed container of a design approved by  
53 the commission. Such a permit shall issue only to qualified  
54 hotels, restaurants and clubs, and to common carriers with  
55 adequate facilities for serving passengers. In resort areas,  
56 whether inside or outside of a municipality, the commission may,  
57 in its discretion, issue on-premises retailer's permits to such  
58 establishments as it deems proper. An on-premises retailer's  
59 permit when issued to a common carrier shall authorize the sale  
60 and serving of alcoholic beverages aboard any licensed vehicle  
61 while moving through any county of the state; however, the sale of

62 such alcoholic beverages shall not be permitted while such vehicle  
63 is stopped in a county that has not legalized such sales.

64 (d) **Solicitor's permit.** A solicitor's permit shall  
65 authorize the holder thereof to act as salesman for a manufacturer  
66 or wholesaler holding a proper permit, to solicit on behalf of his  
67 employer orders for alcoholic beverages, and to otherwise promote  
68 his employer's products in a legitimate manner. Such a permit  
69 shall authorize the representation of and employment by one (1)  
70 principal only. However, the permittee may also, in the  
71 discretion of the commission, be issued additional permits to  
72 represent other principals. No such permittee shall buy or sell  
73 alcoholic beverages for his own account, and no such beverage  
74 shall be brought into this state in pursuance of the exercise of  
75 such permit otherwise than through a permit issued to a wholesaler  
76 or manufacturer in the state.

77 (e) **Native wine retailer's permit.** A native wine  
78 retailer's permit shall be issued only to a holder of a Class 3  
79 manufacturer's permit, and shall authorize the holder thereof to  
80 make retail sales of native wines to consumers for on-premises  
81 consumption or to consumers in originally sealed and unopened  
82 containers at an establishment located on the premises of or in  
83 the immediate vicinity of a native winery.

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

88 Temporary retailer's permits shall be of the following  
89 classes:

90 Class 1. A temporary one-day permit may be issued to bona  
91 fide nonprofit civic or charitable organizations authorizing the  
92 sale of alcoholic beverages, including native wine, for  
93 consumption on the premises described in the temporary permit  
94 only. Class 1 permits may be issued only to applicants

95 demonstrating to the commission, by affidavit submitted ten (10)  
96 days prior to the proposed date or such other time as the  
97 commission may determine, that they meet the qualifications of  
98 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57  
99 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
100 obtain all alcoholic beverages from package retailers located in  
101 the county in which the temporary permit is issued. Alcoholic  
102 beverages remaining in stock upon expiration of the temporary  
103 permit may be returned by the permittee to the package retailer  
104 for a refund of the purchase price upon consent of the package  
105 retailer or may be kept by the permittee exclusively for personal  
106 use and consumption, subject to all laws pertaining to the illegal  
107 sale and possession of alcoholic beverages. The commission,  
108 following review of the affidavit and the requirements of the  
109 applicable statutes and regulations, may issue the permit.

110 Class 2. A temporary permit, not to exceed seventy (70)  
111 days, may be issued to prospective permittees seeking to transfer  
112 a permit authorized in either paragraph (b) or (c) of this  
113 section. A Class 2 permit may be issued only to applicants  
114 demonstrating to the commission, by affidavit, that they meet the  
115 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),  
116 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The  
117 commission, following a preliminary review of the affidavit and  
118 the requirements of the applicable statutes and regulations, may  
119 issue the permit.

120 Class 2 temporary permittees must purchase their alcoholic  
121 beverages directly from the commission or, with approval of the  
122 commission, purchase the remaining stock of the previous  
123 permittee. If the proposed applicant of a Class 1 or Class 2  
124 temporary permit falsifies information contained in the  
125 application or affidavit, the applicant shall never again be  
126 eligible for a retail alcohol beverage permit and shall be subject  
127 to prosecution for perjury.

128           (g) **Caterer's permit.** A caterer's permit shall permit  
129 the purchase of alcoholic beverages by a person engaging in  
130 business as a caterer and the resale of alcoholic beverages by  
131 such person in conjunction with such catering business. No person  
132 shall qualify as a caterer unless forty percent (40%) or more of  
133 the revenue derived from such catering business shall be from the  
134 serving of prepared food and not from the sale of alcoholic  
135 beverages and unless such person has obtained a permit for such  
136 business from the Department of Health. A caterer's permit shall  
137 not authorize the sale of alcoholic beverages on the premises of  
138 the person engaging in business as a caterer; however, the holder  
139 of an on-premises retailer's permit may hold a caterer's permit.  
140 All sales of alcoholic beverages by holders of a caterer's permit  
141 shall be made at the location being catered by the caterer, and  
142 such sales may be made only for consumption at the catered  
143 location. Such sales shall be made pursuant to any other  
144 conditions and restrictions which apply to sales made by  
145 on-premises retail permittees. The holder of a caterer's permit  
146 or his employees shall remain at the catered location as long as  
147 alcoholic beverages are being sold pursuant to the permit issued  
148 under this paragraph (g), and the permittee and employees at such  
149 location shall each have personal identification cards issued by  
150 the Alcoholic Beverage Control Division of the commission. No  
151 unsold alcoholic beverages may be left at the catered location by  
152 the permittee upon the conclusion of his business at that  
153 location. Appropriate law enforcement officers and Alcoholic  
154 Beverage Control Division personnel may enter a catered location  
155 on private property in order to enforce laws governing the sale or  
156 serving of alcoholic beverages.

157           (h) **Research Permit.** A research permit shall authorize  
158 the holder thereof to operate a research facility for the  
159 professional research of alcoholic beverages. Such permit shall  
160 authorize the holder of the permit to import and purchase limited

161 amounts of alcoholic beverages from the commission or from  
162 importers, wineries and distillers of alcoholic beverages for  
163 professional research.

164           (i) **Alcohol processing permit.** An alcohol processing  
165 permit shall authorize the holder thereof to purchase, transport  
166 and possess alcoholic beverages for the exclusive use in cooking,  
167 processing or manufacturing products which contain alcoholic  
168 beverages as an integral ingredient. An alcohol processing permit  
169 shall not authorize the sale of alcoholic beverages on the  
170 premises of the person engaging in the business of cooking,  
171 processing or manufacturing products which contain alcoholic  
172 beverages. The amounts of alcoholic beverages allowed under an  
173 alcohol processing permit shall be set by the commission.

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

177           (3) Except as otherwise provided in this subsection, no  
178 authority shall be granted to any person to manufacture, sell or  
179 store for sale any intoxicating liquor as specified in this  
180 chapter within four hundred (400) feet of any church, school,  
181 kindergarten or funeral home. However, within an area zoned  
182 commercial or business, such minimum distance shall be not less  
183 than one hundred (100) feet.

184           A church or funeral home may waive the distance restrictions  
185 imposed in this subsection in favor of allowing issuance by the  
186 commission of a permit, pursuant to subsection (1) of this  
187 section, to authorize activity relating to the manufacturing, sale  
188 or storage of alcoholic beverages which would otherwise be  
189 prohibited under the minimum distance criterion. Such waiver  
190 shall be in written form from the owner, the governing body, or  
191 the appropriate officer of the church or funeral home having the  
192 authority to execute such a waiver, and the waiver shall be filed  
193 with and verified by the commission before becoming effective.

194           The distance restrictions imposed in this subsection shall  
195 not apply to the sale or storage of alcoholic beverages at a bed  
196 and breakfast inn listed in the National Register of Historic  
197 Places.

198           (4) No person, either individually or as a member of a firm,  
199 partnership or association, or as a stockholder, officer or  
200 director in a corporation, shall own or control any interest in  
201 more than one (1) package retailer's permit, nor shall such  
202 person's spouse, if living in the same household of such person,  
203 any relative of such person, if living in the same household of  
204 such person, or any other person living in the same household with  
205 such person own any interest in any other package retailer's  
206 permit.

207           [From and after July 1, 2006, this section shall read as  
208 follows:]

209           67-1-51. (1) Permits which may be issued by the commission  
210 shall be as follows:

211           (a) **Manufacturer's permit.** A manufacturer's permit  
212 shall permit the manufacture, importation in bulk, bottling and  
213 storage of alcoholic liquor and its distribution and sale to  
214 manufacturers holding permits under this chapter in this state and  
215 to persons outside the state who are authorized by law to purchase  
216 the same, and to sell exclusively to the commission.

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

218           Class 1. Distiller's and/or rectifier's permit, which  
219 shall authorize the holder thereof to operate a distillery for the  
220 production of distilled spirits by distillation or redistillation  
221 and/or to operate a rectifying plant for the purifying, refining,  
222 mixing, blending, flavoring or reducing in proof of distilled  
223 spirits and alcohol.

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

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

230           (b) **Package retailer's permit.** Except as otherwise  
231 provided in this paragraph, a package retailer's permit shall  
232 authorize the holder thereof to operate a store exclusively for  
233 the sale at retail in original sealed and unopened packages of  
234 alcoholic beverages, including native wines, not to be consumed on  
235 the premises where sold. Alcoholic beverages shall not be sold by  
236 any retailer in any package or container containing less than  
237 fifty (50) milliliters by liquid measure. In addition to the sale  
238 at retail of packages of alcoholic beverages, the holder of a  
239 package retailer's permit is authorized to sell at retail  
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241 other beverages commonly used to mix with alcoholic beverages.  
242 Nonalcoholic beverages sold by the holder of a package retailer's  
243 permit shall not be consumed on the premises where sold.

244           (c) **On-premises retailer's permit.** An on-premises  
245 retailer's permit shall authorize the sale of alcoholic beverages,  
246 including native wines, for consumption on the licensed premises  
247 only. Such a permit shall issue only to qualified hotels,  
248 restaurants and clubs, and to common carriers with adequate  
249 facilities for serving passengers. In resort areas, whether  
250 inside or outside of a municipality, the commission may, in its  
251 discretion, issue on-premises retailer's permits to such  
252 establishments as it deems proper. An on-premises retailer's  
253 permit when issued to a common carrier shall authorize the sale  
254 and serving of alcoholic beverages aboard any licensed vehicle  
255 while moving through any county of the state; however, the sale of  
256 such alcoholic beverages shall not be permitted while such vehicle  
257 is stopped in a county that has not legalized such sales.

258           (d) **Solicitor's permit.** A solicitor's permit shall  
259 authorize the holder thereof to act as salesman for a manufacturer

260 or wholesaler holding a proper permit, to solicit on behalf of his  
261 employer orders for alcoholic beverages, and to otherwise promote  
262 his employer's products in a legitimate manner. Such a permit  
263 shall authorize the representation of and employment by one (1)  
264 principal only. However, the permittee may also, in the  
265 discretion of the commission, be issued additional permits to  
266 represent other principals. No such permittee shall buy or sell  
267 alcoholic beverages for his own account, and no such beverage  
268 shall be brought into this state in pursuance of the exercise of  
269 such permit otherwise than through a permit issued to a wholesaler  
270 or manufacturer in the state.

271 (e) **Native wine retailer's permit.** A native wine  
272 retailer's permit shall be issued only to a holder of a Class 3  
273 manufacturer's permit, and shall authorize the holder thereof to  
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289 demonstrating to the commission, by affidavit submitted ten (10)  
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295 the county in which the temporary permit is issued. Alcoholic  
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301 sale and possession of alcoholic beverages. The commission,  
302 following review of the affidavit and the requirements of the  
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315 beverages directly from the commission or, with approval of the  
316 commission, purchase the remaining stock of the previous  
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318 temporary permit falsifies information contained in the  
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324 business as a caterer and the resale of alcoholic beverages by  
325 such person in conjunction with such catering business. No person

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327 the revenue derived from such catering business shall be from the  
328 serving of prepared food and not from the sale of alcoholic  
329 beverages and unless such person has obtained a permit for such  
330 business from the Department of Health. A caterer's permit shall  
331 not authorize the sale of alcoholic beverages on the premises of  
332 the person engaging in business as a caterer; however, the holder  
333 of an on-premises retailer's permit may hold a caterer's permit.  
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335 shall be made at the location being catered by the caterer, and  
336 such sales may be made only for consumption at the catered  
337 location. Such sales shall be made pursuant to any other  
338 conditions and restrictions which apply to sales made by  
339 on-premises retail permittees. The holder of a caterer's permit  
340 or his employees shall remain at the catered location as long as  
341 alcoholic beverages are being sold pursuant to the permit issued  
342 under this paragraph (g), and the permittee and employees at such  
343 location shall each have personal identification cards issued by  
344 the Alcoholic Beverage Control Division of the commission. No  
345 unsold alcoholic beverages may be left at the catered location by  
346 the permittee upon the conclusion of his business at that  
347 location. Appropriate law enforcement officers and Alcoholic  
348 Beverage Control Division personnel may enter a catered location  
349 on private property in order to enforce laws governing the sale or  
350 serving of alcoholic beverages.

351 (h) **Research Permit.** A research permit shall authorize  
352 the holder thereof to operate a research facility for the  
353 professional research of alcoholic beverages. Such permit shall  
354 authorize the holder of the permit to import and purchase limited  
355 amounts of alcoholic beverages from the commission or from  
356 importers, wineries and distillers of alcoholic beverages for  
357 professional research.

358           (i) **Alcohol processing permit.** An alcohol processing  
359 permit shall authorize the holder thereof to purchase, transport  
360 and possess alcoholic beverages for the exclusive use in cooking,  
361 processing or manufacturing products which contain alcoholic  
362 beverages as an integral ingredient. An alcohol processing permit  
363 shall not authorize the sale of alcoholic beverages on the  
364 premises of the person engaging in the business of cooking,  
365 processing or manufacturing products which contain alcoholic  
366 beverages. The amounts of alcoholic beverages allowed under an  
367 alcohol processing permit shall be set by the commission.

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

371           (3) Except as otherwise provided in this subsection, no  
372 authority shall be granted to any person to manufacture, sell or  
373 store for sale any intoxicating liquor as specified in this  
374 chapter within four hundred (400) feet of any church, school,  
375 kindergarten or funeral home. However, within an area zoned  
376 commercial or business, such minimum distance shall be not less  
377 than one hundred (100) feet.

378           A church or funeral home may waive the distance restrictions  
379 imposed in this subsection in favor of allowing issuance by the  
380 commission of a permit, pursuant to subsection (1) of this  
381 section, to authorize activity relating to the manufacturing, sale  
382 or storage of alcoholic beverages which would otherwise be  
383 prohibited under the minimum distance criterion. Such waiver  
384 shall be in written form from the owner, the governing body, or  
385 the appropriate officer of the church or funeral home having the  
386 authority to execute such a waiver, and the waiver shall be filed  
387 with and verified by the commission before becoming effective.

388           The distance restrictions imposed in this subsection shall  
389 not apply to the sale or storage of alcoholic beverages at a bed

390 and breakfast inn listed in the National Register of Historic  
391 Places.

392 (4) No person, either individually or as a member of a firm,  
393 partnership or association, or as a stockholder, officer or  
394 director in a corporation, shall own or control any interest in  
395 more than one (1) package retailer's permit, nor shall such  
396 person's spouse, if living in the same household of such person,  
397 any relative of such person, if living in the same household of  
398 such person, or any other person living in the same household with  
399 such person own any interest in any other package retailer's  
400 permit.

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