

By: Senator(s) Albritton

To: Finance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

206           **SECTION 2.** This act shall take effect and be in force from  
207 and after July 1, 2004.