

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2714

1 AN ACT TO AMEND SECTIONS 67-3-3, 67-3-1, 67-3-5, 67-3-7,
2 67-3-9, 67-3-13, 67-3-15, 67-3-17, 67-3-19, 67-3-25, 67-3-27,
3 67-3-29, 67-3-41, 67-3-45, 67-3-49, 67-3-51, 67-3-53, 67-3-54,
4 67-3-57, 67-3-59, 67-3-61, 67-3-63, 67-3-65, 67-3-67, 67-3-70,
5 67-3-73, 67-3-74, 67-1-5, 67-1-7, 67-1-9, 67-1-13, 67-1-37,
6 67-1-41, 67-1-43, 67-1-45, 67-1-51, 67-1-73, 67-1-77, 67-5-5,
7 67-5-9, 67-5-11 AND 67-5-13, MISSISSIPPI CODE OF 1972, TO PROVIDE
8 THAT WINE WITH AN ALCOHOL CONTENT OF MORE THAN 5% BY WEIGHT SHALL
9 BE SOLD, MANUFACTURED AND DISTRIBUTED IN THE SAME MANNER AS BEER
10 AND LIGHT WINE, TO REMOVE THE SALE DISTRIBUTION AND MANUFACTURE OF
11 WINE WITH AN ALCOHOL CONTENT OF MORE THAN 5% BY WEIGHT FROM THE
12 LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW; TO AMEND SECTIONS
13 27-71-5, 27-71-7, 27-71-21, 27-71-301, 27-71-303, 27-71-307,
14 27-71-311, 27-71-315, 27-71-317, 27-71-325, 27-71-327, 27-71-333,
15 27-71-335 AND 27-71-345, IN CONFORMITY THERETO; AND FOR RELATED
16 PURPOSES.

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

18 **SECTION 1.** Section 67-3-3, Mississippi Code of 1972, is
19 amended as follows:

20 67-3-3. When used in this chapter, unless the context
21 indicates otherwise:

22 (a) "Commissioner" means the Chairman of the State Tax
23 Commission of the State of Mississippi, and his authorized agents
24 and employees;

25 (b) "Person" means one or more persons, a company, a
26 corporation, a partnership, a syndicate or an association;

27 (c) "Manufacturer" and "retailer" include brewpubs
28 licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi
29 Code of 1972, unless otherwise clearly provided; and

30 (d) "Beer" means a malt beverage as defined in the
31 Federal Alcohol Administration Act and any rules and regulations
32 adopted pursuant to such act with an alcoholic content of not more
33 than five percent (5%) by weight.

34 (e) "Light wine" means any product obtained from the
35 alcoholic fermentation of the juice of sound, ripe grapes, fruits
36 or berries and made in accordance with the revenue laws of the
37 United States with an alcoholic content of not more than five
38 percent (5%) by weight.

39 (e) "Wine" means any product obtained from the
40 alcoholic fermentation of the juice of sound, ripe grapes, fruits
41 or berries and made in accordance with the revenue laws of the
42 United States with an alcoholic content of more than five percent
43 (5%) by weight.

44 (f) "Native wine" shall have the meaning ascribed to
45 such term in Section 67-5-5.

46 **SECTION 2.** Section 67-3-1, Mississippi Code of 1972, is
47 amended as follows:

48 67-3-1. The purpose of this chapter is to legalize the
49 manufacture and sale within this state of * * * beer, light wine
50 and wine, as defined in Section 67-3-3, and to regulate the
51 business of manufacturing and of selling such beer, light wine and
52 wine * * *.

53 **SECTION 3.** Section 67-3-5, Mississippi Code of 1972, is
54 amended as follows:

55 67-3-5. It shall be lawful, subject to the provisions set
56 forth in this chapter, in this state to transport, store, sell,
57 distribute, possess, receive, and/or manufacture * * * beer, light
58 wine and wine, and it is hereby declared that it is the
59 legislative intent that this chapter privileges the lawful sale
60 and manufacture, within this state, of such * * * beer, light wine
61 and wine. In determining if a wine product is "light wine," or
62 contains an alcoholic content of more than five percent (5%) by
63 weight, * * * the alcoholic content of such wine product shall be
64 subject to the same permitted tolerance as is allowed by the
65 labeling requirements for light wine provided for in Section
66 27-71-509.

67 **SECTION 4.** Section 67-3-7, Mississippi Code of 1972, is
68 amended as follows:

69 67-3-7. (1) (a) If any county, at an election held for the
70 purpose under the election laws of the state, shall by a majority
71 vote of the duly qualified electors voting in the election
72 determine that the transportation, storage, sale, distribution,
73 receipt and/or manufacture of * * * beer, light wine and
74 wine * * * shall not be permitted in such county, then the same
75 shall not be permitted therein except as authorized under Section
76 67-9-1. An election to determine whether such transportation,
77 storage, sale, distribution, receipt and/or manufacture of such
78 beverages shall be excluded from any county in the state, shall on
79 a petition of twenty percent (20%) of the duly qualified electors
80 of such county, be ordered by the board of supervisors thereof,
81 for such county only. No election on the question shall be held
82 in any one (1) county more often than once in five (5) years.

83 (b) In counties which have elected, or may elect by a
84 majority vote of the duly qualified electors voting in the
85 election, that the transportation, storage, sale, distribution,
86 receipt and/or manufacture of * * * beer, light wine or wine shall
87 not be permitted in the county, an election may be held in the
88 same manner as the election * * * provided for in paragraph (a) of
89 this subsection on the question of whether or not the
90 transportation, storage, sale, distribution, receipt and/or
91 manufacture of such beverages shall be permitted in such county.
92 The election shall be ordered by the board of supervisors of such
93 county on a petition of twenty percent (20%) of the duly qualified
94 electors of such county. No election on this question can be
95 ordered more often than once in five (5) years.

96 (2) Nothing in this section shall make it unlawful to
97 possess beer, light wine or wine, as defined in Section 67-3-3, in
98 any municipality which has heretofore or which may hereafter vote
99 in an election, pursuant to Section 67-3-9, in which a majority of

100 the qualified electors vote in favor of permitting the sale and
101 the receipt, storage and transportation for the purpose of sale of
102 beer or wine as defined herein.

103 (3) The possession and dispensation of wine by an authorized
104 representative of any church for the purpose of conducting any
105 bona fide rite or religious ceremony conducted by such church
106 shall not be prohibited by this chapter.

107 (4) Notwithstanding an election prohibiting the sale of
108 beer, light wine or wine in a political subdivision, the holder of
109 a native wine producer's permit or a native wine retailer's permit
110 is allowed to continue to operate under such permits and to renew
111 such permits. Possession of native wines and personal property
112 related to the activities of the native wine permit holder which
113 would otherwise be unlawful under this chapter shall be allowed
114 subject to regulations of the commissioner.

115 **SECTION 5.** Section 67-3-9, Mississippi Code of 1972, is
116 amended as follows:

117 67-3-9. Any city in this state, having a population of not
118 less than two thousand five hundred (2,500) according to the
119 latest federal census, at an election held for the purpose, under
120 the election laws applicable to such city, may either prohibit or
121 permit, except as otherwise provided under Section 67-9-1, the
122 sale and the receipt, storage and transportation for the purpose
123 of sale of beer, light wine or wine. An election to determine
124 whether such sale shall be permitted in cities wherein its sale is
125 prohibited by law shall be ordered by the city council or mayor
126 and board of aldermen or other governing body of the city for the
127 city only, upon the presentation of a petition for the city to
128 such governing board containing the names of twenty percent (20%)
129 of the duly qualified voters of the city asking for such election.
130 In like manner, an election to determine whether such sale shall
131 be prohibited in cities wherein its sale is permitted by law shall
132 be ordered by the city council or mayor and board of aldermen or

133 other governing board of the city for the city only, upon the
134 presentation of a petition to the governing board containing the
135 names of twenty percent (20%) of the duly qualified voters of such
136 city asking for such election. No election on either question
137 shall be held by any one city more often than once in five (5)
138 years.

139 Thirty (30) days' notice shall be given to the qualified
140 electors of the city in the manner prescribed by law upon the
141 question of either permitting or prohibiting such sale. The
142 notice shall contain a statement of the question to be voted on at
143 the election. The tickets to be used in said election shall have
144 the following words printed thereon: "For the legal sale of wine
145 and the legal sale of beer or light wine of an alcoholic content
146 of not more than five percent (5%) by weight"; and the words
147 "Against the legal sale of wine and the legal sale of beer or
148 light wine of an alcoholic content of not more than five percent
149 (5%) by weight," next below. In making up his ticket the voter
150 shall make a cross (X) opposite the words of his choice.

151 If in the election a majority of the qualified electors
152 voting in the election shall vote "For the legal sale of wine and
153 the legal sale of beer or light wine of an alcoholic content of
154 not more than five percent (5%) by weight," then the city council
155 or mayor and board of aldermen or other governing body shall pass
156 the necessary order permitting the legal sale of such beer in such
157 city. If in the election a majority of the qualified electors
158 voting in the election shall vote "Against the legal sale of wine
159 and the legal sale of beer or light wine of an alcoholic content
160 of not more than five percent (5%) by weight," then the city
161 council or mayor and board of aldermen or other governing body
162 shall pass the necessary order prohibiting the sale of such beer
163 in such city.

164 All laws or parts of laws in conflict with this section are
165 hereby repealed to the extent of such conflict only, this section
166 being cumulative and supplementary.

167 **SECTION 6.** Section 67-3-13, Mississippi Code of 1972, is
168 amended as follows:

169 67-3-13. (1) Except as otherwise provided herein and as
170 authorized under subsection (2) of this section and Section
171 67-9-1, in any county which has at any time since February 26,
172 1934, elected, or which may hereafter elect, to prohibit the
173 transportation, storage, sale, distribution, receipt and/or
174 manufacture of wine and beer of an alcoholic content of not more
175 than four percent (4%) by weight in such county, it is hereby
176 declared to be unlawful to possess such beverages therein. In any
177 county which, after July 1, 1998, elects to prohibit the
178 transportation, storage, sale, distribution, receipt and/or
179 manufacture of * * * beer, light wine or wine in such county, it
180 is hereby declared to be unlawful to possess such beer therein.
181 Any person found possessing any beer or wine of any quantity
182 whatsoever in such county shall, on conviction, be imprisoned not
183 more than ninety (90) days or fined not more than Five Hundred
184 Dollars (\$500.00), or be both so fined and imprisoned.

185 (2) Notwithstanding the provisions of subsection (1) of this
186 section, in any county or municipality in which the
187 transportation, storage, sale, distribution, receipt and/or
188 manufacture of light wine and beer is prohibited, it shall not be
189 unlawful for a permitted wholesaler or distributor to possess
190 light wine and beer when such light wine and beer is held in the
191 county solely for the purpose of storage and for distribution to
192 other counties and municipalities in which possession of such
193 beverages is lawful.

194 **SECTION 7.** Section 67-3-15, Mississippi Code of 1972, is
195 amended as follows:

196 67-3-15. Any person who shall brew or manufacture or sell
197 any beer, light wine or wine without first having secured a permit
198 and/or license from the commissioner authorizing the brewing or
199 manufacture or sale of beer, light wine or wine, shall be guilty
200 of a misdemeanor and, upon conviction thereof, be punished by a
201 fine of not more than One Thousand Dollars (\$1,000.00) or
202 imprisonment in the county jail for not more than one (1) year, or
203 both, in the discretion of the court. Any person so convicted may
204 not apply for any permit or license issued by the commissioner
205 until five (5) years have elapsed from the date of such
206 conviction.

207 **SECTION 8.** Section 67-3-17, Mississippi Code of 1972, is
208 amended as follows:

209 67-3-17. Any person desiring to engage in any business
210 taxable under Sections 27-71-303 through 27-71-317, Mississippi
211 Code of 1972, either as a retailer, or as a wholesaler or
212 distributor, or as a manufacturer, of * * * beer, light wine, wine
213 or native wine, shall file with the commissioner an application
214 for a permit allowing him to engage in such business. The
215 application for a permit shall be filed on a blank to be furnished
216 by the commissioner for that purpose, and shall contain a
217 statement showing the name of the business, and if a partnership,
218 firm or association, the name of each partner or member, and if a
219 corporation the names of two (2) principal officers, the post
220 office address, and the nature of business in which engaged. In
221 case any business is conducted at two (2) or more separate places,
222 a separate permit for each place of business shall be required.

223 The applicant, at the time of filing such application for a
224 permit or license to engage in such business, shall also file with
225 the commissioner an oath, duly subscribed and sworn to by him
226 before an officer authorized to administer oaths, that he will not
227 allow any intoxicating liquor, other than beer, light wine or wine
228 as defined by this chapter, * * * to be kept, stored or secreted

229 in or on the premises described in such permit or license, and
230 that the applicant will not otherwise violate any law of this
231 state, or knowingly allow any other person to violate any such
232 law, while in or on such premises.

233 Each application or filing made under this section shall
234 include the social security number(s) of the applicant in
235 accordance with Section 93-11-64, Mississippi Code of 1972.

236 **SECTION 9.** Section 67-3-19, Mississippi Code of 1972, is
237 amended as follows:

238 67-3-19. Where application is made for a permit to engage in
239 the business of a retailer of * * * beer, light wine or wine, the
240 applicant shall show in his application that he possesses the
241 following qualifications:

242 (a) Applicant must be a person at least twenty-one (21)
243 years of age, of good moral character and a resident of the State
244 of Mississippi.

245 (b) Applicant shall not have been convicted of a
246 felony, or of pandering or of keeping or maintaining a house of
247 prostitution, or have been convicted within two (2) years of the
248 date of his application of any violation of the laws of this state
249 or the laws of the United States relating to alcoholic liquor.

250 (c) Applicant shall not have had revoked, except for a
251 violation of Section 67-3-52, within two (2) years next preceding
252 his application, any license or permit issued to him pursuant to
253 the laws of this state, or any other state, to sell alcoholic
254 liquor of any kind.

255 (d) Applicant shall be the owner of the premises for
256 which the permit is sought or the holder of an existing lease
257 thereon.

258 (e) Applicant shall not be residentially domiciled with
259 any person whose permit has been revoked for cause, except for a
260 violation of Section 67-3-52, within two (2) years next preceding
261 the date of the present application for a permit.

262 (f) The applicant has not had any license or permit to
263 sell beer or light wine at retail revoked, within five (5) years
264 next preceding his application, due to a violation of Section
265 67-3-52.

266 (g) Applicant shall not employ any person whose permit
267 has been revoked when such person owned or operated the business
268 on the premises for which a permit is sought or allow such person
269 to have any financial interest in the business of the applicant,
270 until such person is qualified to obtain a permit in his own name.

271 (h) The applicant is not indebted to the State of
272 Mississippi for any taxes.

273 (i) If applicant is a partnership, all members of the
274 partnership must be qualified to obtain a permit. Each member of
275 the partnership must be a resident of the State of Mississippi.

276 (j) If applicant is a corporation, all officers and
277 directors thereof, and any stockholder owning more than five
278 percent (5%) of the stock of such corporation, and the person or
279 persons who shall conduct and manage the licensed premises for the
280 corporation shall possess all the qualifications required herein
281 for any individual permittee. However, the requirements as to
282 residence shall not apply to officers, directors, and stockholders
283 of such corporation, although such requirements shall apply to any
284 officer, director, or stockholder who is also the manager of the
285 licensed premises or who is engaged or employed at the licensed
286 premises. The designated manager of the licensed premises must be
287 a resident of the State of Mississippi.

288 Any misstatement or concealment of fact in an application
289 shall be ground for denial of the application or for revocation of
290 the permit issued thereon.

291 The commissioner may refuse to issue a permit to an applicant
292 for a place that is frequented by known criminals, prostitutes, or
293 other law violators or troublemakers who disturb the peace and
294 quietude of the community and frequently require the assistance of

295 peace officers to apprehend such law violators or to restore
296 order. The burden of proof of establishing the foregoing shall
297 rest upon the commissioner.

298 **SECTION 10.** Section 67-3-25, Mississippi Code of 1972, is
299 amended as follows:

300 67-3-25. Any permit issued authorizing the sale of * * *
301 beer, light wines or wines for consumption shall be construed to
302 authorize the sale of such * * * beer, light wines or wines by the
303 bottle, by the glass or by draught, and in or from the original
304 package.

305 The commissioner is authorized to establish, in his
306 discretion, a common date for the expiration of permits for each
307 county or municipality or for all counties or municipalities in
308 which the sale of * * * beer, light wines or wines is permitted by
309 law and to issue permits for the period of time between the date
310 of application and the next expiration date.

311 All permits shall show date of issuance and shall be renewed
312 annually, except as provided above, on the first day of the same
313 month in the following year.

314 **SECTION 11.** Section 67-3-27, Mississippi Code of 1972, is
315 amended as follows:

316 67-3-27. Before any person shall engage in the business of
317 manufacturer, wholesaler, distributor or retailer of * * * beer,
318 light wines or wines, he shall apply to the commissioner for a
319 license to engage in such business, and shall pay to the
320 commissioner the specific tax imposed by Section 27-71-303, for
321 the privilege of engaging in such business. The commissioner upon
322 receipt of such tax shall issue to such person a privilege license
323 to engage in or continue in such business for a period of time not
324 to exceed one (1) year. No such license shall be issued to the
325 applicant unless the applicant shall have obtained from the
326 commissioner a permit as required in Section 67-3-17. A brewpub

327 shall obtain all necessary federal licenses and permits prior to
328 obtaining any license under this chapter.

329 All privilege licenses issued under the provisions of this
330 section shall be renewed annually on or before the first day of
331 the month in which the current license expires.

332 **SECTION 12.** Section 67-3-29, Mississippi Code of 1972, is
333 amended as follows:

334 67-3-29. (1) The commissioner shall revoke any permit
335 granted by authority of this chapter to any person who shall
336 violate any of the provisions of this chapter or the revenue laws
337 of this state relating to engaging in transporting, storing,
338 selling, distributing, possessing, receiving or manufacturing
339 of * * * beers, light wines or wines, or any person who shall
340 hereafter be convicted of the unlawful sale of intoxicating
341 liquor, or any person who shall allow or permit any form of
342 illegal gambling or immorality on the premises described in such
343 permit. The commissioner shall not revoke or suspend a permit of
344 a retailer for the sale of * * * beer, light wine or wine to a
345 person under the age of twenty-one (21) years until there has been
346 a conviction of the permit holder or an employee of the permit
347 holder for such violation.

348 (2) If any person exercising any privilege taxable under the
349 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,
350 shall willfully neglect or refuse to comply with the provisions of
351 such chapter, or any rules or regulations promulgated by the
352 commissioner under authority of such chapter, or the provisions of
353 this chapter, the commissioner shall be authorized to revoke the
354 permit theretofore issued to such person, after giving to such
355 person ten (10) days notice of the intention of the commissioner
356 to revoke such permit. The commissioner may, however, suspend
357 such permit instead of revoking same if, in his opinion,
358 sufficient cause is shown for a suspension rather than revocation.
359 Any person whose permit shall have been revoked by the

360 commissioner shall be thereafter prohibited from exercising any
361 privilege under the provisions of Chapter 71 of Title 27,
362 Mississippi Code of 1972, for a period of two (2) years from the
363 date of such revocation. The commissioner may, however, for good
364 cause shown, grant a new permit upon such conditions as the
365 commissioner may prescribe. Any person whose permit shall have
366 been suspended by the commissioner shall be prohibited from
367 exercising any privilege under the provisions of Chapter 71 of
368 Title 27, Mississippi Code of 1972, during the period of such
369 suspension. Failure of such person to comply with the terms of
370 the suspension shall be cause for revocation of his permit, in
371 addition to the other penalties provided by law.

372 (3) In addition to the reasons specified in this section and
373 other provisions of this chapter, the commissioner shall be
374 authorized to suspend the permit of any permit holder for being
375 out of compliance with an order for support, as defined in Section
376 93-11-153. The procedure for suspension of a permit for being out
377 of compliance with an order for support, and the procedure for the
378 reissuance or reinstatement of a permit suspended for that
379 purpose, and the payment of any fees for the reissuance or
380 reinstatement of a permit suspended for that purpose, shall be
381 governed by Section 93-11-157 or Section 93-11-163, as the case
382 may be. If there is any conflict between any provision of Section
383 93-11-157 or Section 93-11-163 and any provision of this chapter,
384 the provisions of Section 93-11-157 or 93-11-163, as the case may
385 be, shall control.

386 **SECTION 13.** Section 67-3-41, Mississippi Code of 1972, is
387 amended as follows:

388 67-3-41. Sections 67-3-31 through 67-3-41 and Section
389 67-3-53 are declared to be cumulative, amendatory, and
390 supplemental to any and all other acts and laws of this state
391 pertaining to the governing of the sale and distribution of * * *
392 beers, light wines or wines as contained in Sections 27-71-301

393 through 27-71-347, Mississippi Code of 1972, and Sections 67-3-17,
394 67-3-23, 67-3-27, 67-3-29(2), 67-3-55 and 67-3-57.

395 **SECTION 14.** Section 67-3-45, Mississippi Code of 1972, is
396 amended as follows:

397 67-3-45. No manufacturer, distributor or wholesale dealer to
398 whom or to which this chapter applies shall:

399 (a) Make any loan, directly or indirectly, or furnish
400 any fixtures of any kind, directly or indirectly, to any retail
401 dealer in * * * beers, light wines or wines;

402 (b) Have any interest, direct or indirect, in the
403 business of or in the furnishings or fixtures or in the premises
404 used by any such retail dealer in connection with his or its
405 business;

406 (c) Have any lien on any such property of any such
407 retail dealer; or

408 (d) Sell * * * beer, light wines or wines to any such
409 retail dealer on credit.

410 This section shall not apply to a brewpub licensed pursuant
411 to Article 3, Chapter 71, Title 27, Mississippi Code of 1972.

412 **SECTION 15.** Section 67-3-49, Mississippi Code of 1972, is
413 amended as follows:

414 67-3-49. It shall be unlawful for any brewer or manufacturer
415 or distributor or wholesale dealer of or in * * * beer, light
416 wines or wines to manufacture or knowingly bring upon his premises
417 or keep thereon any beer, light wine or wine, except beer or wine
418 as defined in Section 67-3-3, or any distilled spirits of any
419 alcoholic content whatsoever. Any person that shall add to or mix
420 with any beer or light wine any alcoholic or other liquid, or any
421 alcohol cube or cubes, or any other ingredient or ingredients that
422 will increase or tend to increase the alcoholic content of such
423 liquor, or any person that shall knowingly offer for sale any
424 liquor so treated, shall be guilty of a misdemeanor and punished
425 as hereinafter provided in this chapter. The commissioner shall

426 take any action he considers necessary to ensure that light wine
427 and/or beer manufactured at a brewpub complies with the provisions
428 of this section.

429 **SECTION 16.** Section 67-3-51, Mississippi Code of 1972, is
430 amended as follows:

431 67-3-51. It shall be unlawful for any person to sell, or
432 offer to sell, or keep for sale any bottled beer, bottled light
433 wine or bottled wine except * * * in the original bottle or in the
434 original package containing bottles, each of which bottles shall
435 bear the original label and the full name of the brewer or
436 manufacturer of the contents of such bottle, both on the label and
437 on the cap or cork of such bottle in the case of beer, and on the
438 label only in the case of light wine or wine.

439 It shall be unlawful for any person to sell, or offer for
440 sale, or keep for sale any beer, light wine or wine in the
441 original package or packages unless each such original package
442 (whether barrel or other container, and whether containing liquor
443 in bottles or otherwise) shall have plainly stamped on the
444 container or label for each such container the full name of the
445 manufacturer of the liquor therein contained.

446 It shall be unlawful for any person to sell on draught any
447 beer or light wine except the same be drawn from the original
448 barrel or other container, which such container shall have plainly
449 stamped on each end thereof the full name of the manufacturer of
450 such liquor.

451 **SECTION 17.** Section 67-3-53, Mississippi Code of 1972, is
452 amended as follows:

453 67-3-53. In addition to any act declared to be unlawful by
454 this chapter, or by Sections 27-71-301 through 27-71-347, and
455 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be
456 unlawful for the holder of a permit authorizing the sale of beer,
457 light wine or wine at retail or for the employee of the holder of
458 such a permit:

459 (a) To sell or give to be consumed in or upon any
460 licensed premises any beer, light wine or wine between the hours
461 of midnight and seven o'clock the following morning or during any
462 time the licensed premises may be required to be closed by
463 municipal ordinance or order of the board of supervisors; * * *
464 however, in areas where the sale of alcoholic beverages is legal
465 under the provisions of the Local Option Alcoholic Beverage
466 Control Law and the hours for selling such alcoholic beverages
467 have been extended beyond midnight for on-premises permittees
468 under Section 67-1-37, the hours for selling beer, light wines or
469 wines are likewise extended in areas where the sale of beer, light
470 wines and wine is legal in accordance with the provisions of this
471 chapter.

472 (b) To sell, give or furnish any beer, light wine or
473 wine to any person visibly or noticeably intoxicated, or to any
474 insane person, or to any habitual drunkard, or to any person under
475 the age of twenty-one (21) years.

476 (c) To permit in the premises any lewd, immoral or
477 improper entertainment, conduct or practices.

478 (d) To permit loud, boisterous or disorderly conduct of
479 any kind upon the premises or to permit the use of loud musical
480 instruments if either or any of the same may disturb the peace and
481 quietude of the community wherein such business is located.

482 (e) To permit persons of ill repute, known criminals,
483 prostitutes or minors to frequent the licensed premises, except
484 minors accompanied by parents or guardians, or under proper
485 supervision.

486 (f) To permit or suffer illegal gambling or the
487 operation of illegal games of chance upon the licensed premises.

488 (g) To receive, possess or sell on the licensed
489 premises any beverage of any kind or character other than beer,
490 light wine or wine as defined in this chapter unless the licensee

491 also possesses an on-premises permit under the Local Option
492 Alcoholic Beverage Control Law.

493 **SECTION 18.** Section 67-3-54, Mississippi Code of 1972, is
494 amended as follows:

495 67-3-54. (1) A person who is at least eighteen (18) years
496 of age but under the age of twenty-one (21) years may possess and
497 consume light wine or beer with the consent of his parent or legal
498 guardian in the presence of his parent or legal guardian, and it
499 shall not be unlawful for the parent, legal guardian or spouse of
500 such person to furnish light wine or beer to such person who is at
501 least eighteen (18) years of age.

502 (2) A person who is at least eighteen (18) years of age and
503 who is serving in the armed services of the United States may
504 lawfully possess and consume light wine or beer on military
505 property where the consumption of light wine or beer is allowed.

506 (3) A person who is under twenty-one (21) years of age shall
507 not be deemed to unlawfully possess or furnish * * * beer, light
508 wine or wine, if in the scope of his employment such person:

509 (a) Clears or buses tables that have glasses or other
510 containers that contain or did contain * * * beer, light wine or
511 wine;

512 (b) Waits on tables by taking orders for * * * beer, light wine or wine; or
513 light wine or wine; or

514 (c) Stocks, bags or otherwise handles purchases
515 of * * * beer, light wine or wine at a store.

516 **SECTION 19.** Section 67-3-57, Mississippi Code of 1972, is
517 amended as follows:

518 67-3-57. It shall be unlawful for any retailer to possess,
519 sell or offer to sell, or to possess for purpose of sale,
520 any * * * beer, light wine or wine at his place of business before
521 securing a permit required by this chapter.

522 It shall be unlawful for any person to possess, sell or offer
523 to sell any * * * beer, light wine or wine at his place of

524 business after revocation of his permit or to purchase, to sell or
525 offer to sell any * * * beer, light wine or wine during the period
526 of suspension of his permit.

527 **SECTION 20.** Section 67-3-59, Mississippi Code of 1972, is
528 amended as follows:

529 67-3-59. Except as * * * provided in this paragraph, sales
530 by wholesalers, distributors or manufacturers to persons who do
531 not hold valid permits are unlawful; and any wholesaler,
532 distributor or manufacturer making such sales, or who sells any
533 beer, light wine, or wine on which the tax provided by law has not
534 been paid, shall, in addition to any other fines, penalties and
535 forfeitures, be subject to a penalty of Twenty-five Dollars
536 (\$25.00) for each * * * sale. If all other applicable taxes are
537 paid, this penalty will not apply to the following: sales to
538 employees of the wholesaler; sales to nonprofit charitable and
539 civic organizations for special fund raising events provided that
540 the beer, light wine or wine is not resold; sales to affiliated
541 member associations.

542 The commissioner may assess such penalty by giving notice by
543 certified or registered mail, demanding payment within ten (10)
544 days from date of delivery of the notice. Upon receipt of such
545 notice, a wholesaler, distributor or manufacturer may petition the
546 commissioner for a hearing to show cause why such penalty should
547 not be assessed. Such petition shall be granted and shall stay
548 the collection procedure until a ruling is made as a result of the
549 hearing. After the hearing, the commissioner shall notify the
550 wholesaler, distributor or manufacturer of his decision by
551 demanding payment or by abating all or a part of the penalty
552 assessed.

553 The proceeds of all penalties shall be deposited by the
554 commissioner with the other monies collected by him and shall be
555 disposed of as provided by law.

556 **SECTION 21.** Section 67-3-61, Mississippi Code of 1972, is
557 amended as follows:

558 67-3-61. Every railroad company, express company, airplane
559 company, motor transportation company, steamboat company, or other
560 transportation company, or any person that shall transport into,
561 from place to place within, or out of this state any * * * beer,
562 light wine or wine, whether brewed or manufactured within this
563 state or outside of this state, when requested by the
564 commissioner, shall furnish him with a duplicate of the bill of
565 lading covering the receipt for such liquor, showing the name of
566 the brewer or manufacturer or distributor, and the name and
567 address of the consignor and of the consignee, and the date when
568 and place where received, and the destination and the quantity of
569 such liquor received from the manufacturer or brewer or other
570 consignor for shipment from any point within or without this state
571 to any point within this state.

572 Any such company or person so transporting any such liquor
573 that shall fail to comply with the requirements of this section,
574 shall forfeit and pay to the State of Mississippi the sum of One
575 Hundred Dollars (\$100.00) for each such failure, to be recovered
576 in any court of competent jurisdiction. The commissioner is
577 hereby authorized and empowered to sue in his own name, on the
578 relation and for the use of the State of Mississippi, for such
579 recovery.

580 **SECTION 22.** Section 67-3-63, Mississippi Code of 1972, is
581 amended as follows:

582 67-3-63. The commissioner shall cause a record to be kept of
583 the names and places of business of all persons engaged in the
584 brewing of beer, of all persons engaged in the manufacture of
585 light wines and wines, and of all persons engaged in the sale
586 of * * * beer, light wines or wines, whether at retail or
587 otherwise. He shall also cause a record to be kept of all beer,
588 light wines and wines (and of the amount thereof) brewed or

589 manufactured by each brewery or winery, and of all such liquors
590 (and of the amount thereof) sold by each brewery or winery, with
591 the names and business addresses of the purchasers, and of all
592 such liquors (and of the amount thereof) sold by every dealer
593 other than a brewer or manufacturer, and in the case of sales by
594 dealers other than retail dealers, of the names and business
595 addresses of the purchasers.

596 The commissioner shall cause a record to be kept of all
597 expenses incurred in the collection of such data.

598 **SECTION 23.** Section 67-3-65, Mississippi Code of 1972, is
599 amended as follows:

600 67-3-65. Municipalities may enforce such proper rules and
601 regulations for fixing zones and territories, prescribing hours of
602 opening and of closing, and for such other measures as will
603 promote public health, morals, and safety, as they may by
604 ordinance provide. The board of supervisors of any county may
605 make such rules and regulations as to territory outside of
606 municipalities as are herein provided for municipalities.

607 Nothing in this chapter shall prohibit the governing body of
608 any municipality from designating what territory surrounding
609 churches and schools in said municipalities, and the board of
610 supervisors of any county from designating what territory
611 surrounding churches and schools outside of any municipality, in
612 which * * * beer, light wines and wines shall not be sold or
613 consumed.

614 **SECTION 24.** Section 67-3-67, Mississippi Code of 1972, is
615 amended as follows:

616 67-3-67. No county or any officer or agent thereof, nor any
617 other officer, agent, or person, shall interfere with or impede
618 the passage through such county of any * * * beer, light wine or
619 wine moving in accordance with the provisions of this chapter and
620 the provisions of Section 67-9-1 and which in transit to or from
621 any county of this state wherein the traffic in * * * beer, light

622 wines and wines is not prohibited, any county prohibition of such
623 traffic to the contrary notwithstanding.

624 **SECTION 25.** Section 67-3-70, Mississippi Code of 1972, is
625 amended as follows:

626 67-3-70. (1) Except as otherwise provided by Section
627 67-3-54, any person under the age of twenty-one (21) years who
628 purchases or possesses any * * * beer, light wine or wine shall be
629 guilty of a misdemeanor, and upon conviction shall be punished by
630 a fine of not less than Two Hundred Dollars (\$200.00) nor more
631 than Five Hundred Dollars (\$500.00) and a sentence to not more
632 than thirty (30) days' community service.

633 (2) Any person under the age of twenty-one (21) years who
634 falsely states he is twenty-one (21) years of age or older or
635 presents any document that indicates he is twenty-one (21) years
636 of age or older for the purpose of purchasing or possessing
637 any * * * beer, light wine or wine shall be guilty of a
638 misdemeanor, and upon conviction shall be punished by a fine of
639 not less than Two Hundred Dollars (\$200.00) nor more than Five
640 Hundred Dollars (\$500.00) and a sentence to not more than thirty
641 (30) days' community service.

642 (3) Except as otherwise provided by Section 67-3-54, any
643 person who knowingly purchases * * * beer, light wine or wine for,
644 or gives or makes available * * * beer, light wine or wine to a
645 person under the age of twenty-one (21) years, shall be guilty of
646 a misdemeanor and upon conviction shall be punished by a fine of
647 not less than Two Hundred Dollars (\$200.00) nor more than Five
648 Hundred Dollars (\$500.00) and a sentence to not more than thirty
649 (30) days' community service.

650 (4) The term "community service" as used in this section
651 shall mean work, projects or services for the benefit of the
652 community assigned, supervised and recorded by appropriate public
653 officials.

654 (5) If a person under the age of twenty-one (21) years is
655 convicted or enters a plea of guilty of violating subsection (1)
656 or subsection (2) of this section, the trial judge, in lieu of the
657 penalties otherwise provided under this section, shall suspend the
658 minor's driver's license by taking and keeping it in the custody
659 of the court for a period of time not to exceed ninety (90) days.
660 The judge so ordering the suspension shall enter upon his docket
661 "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF
662 CONVICTION" and such action by the trial judge shall not
663 constitute a conviction. During the period that the minor's
664 driver's license is suspended, the trial judge shall suspend the
665 imposition of any fines or penalties that may be imposed under
666 this section and may place the minor on probation subject to such
667 conditions as the judge deems appropriate. If the minor violates
668 any of the conditions of probation, then the trial judge shall
669 return the driver's license to the minor and impose the fines,
670 penalties, or both, that he would have otherwise imposed, and such
671 action shall constitute a conviction.

672 (6) Any person who has been charged with a violation of
673 subsections (1) or (2) of this section may, not sooner than one
674 (1) year after the dismissal and discharge or completion of any
675 sentence and/or payment of any fine, apply to the court for an
676 order to expunge from all official records all recordation
677 relating to his arrest, trial, finding or plea of guilty, and
678 dismissal and discharge. If the court determines that such person
679 was dismissed and the proceedings against him discharged or that
680 such person had satisfactorily served his sentence and/or paid his
681 fine, it shall enter such order.

682 **SECTION 26.** Section 67-3-73, Mississippi Code of 1972, is
683 amended as follows:

684 67-3-73. (1) The Mississippi Legislature finds and declares
685 that the consumption of intoxicating beverages, rather than the
686 sale or serving or furnishing of such beverages, is the proximate

687 cause of any injury, including death and property damage,
688 inflicted by an intoxicated person upon himself or upon another
689 person.

690 (2) Notwithstanding any other law to the contrary, no holder
691 of an alcoholic beverage, beer, light wine or wine permit, or any
692 agent or employee of such holder, who lawfully sells or serves
693 intoxicating beverages to a person who may lawfully purchase such
694 intoxicating beverages, shall be liable to such person or to any
695 other person or to the estate, or survivors of either, for any
696 injury suffered off the licensed premises, including wrongful
697 death and property damage, because of the intoxication of the
698 person to whom the intoxicating beverages were sold or served.

699 (3) Notwithstanding any other law to the contrary, no social
700 host who serves or furnishes any intoxicating beverage to a person
701 who may lawfully consume such intoxicating beverage shall be
702 liable to such person or to any other person or to the estate, or
703 survivors of either, for any injury suffered off such social
704 host's premises, including wrongful death and property damage,
705 because of the intoxication of the person to whom the intoxicating
706 beverages were served or furnished. No social host who owns,
707 leases or otherwise lawfully occupies a premises on which, in his
708 absence and without his consent, intoxicating beverages are
709 consumed by a person who may lawfully consume such intoxicating
710 beverage shall be liable to such person or to any other person or
711 to the estate, or survivors of either, for any injury suffered off
712 the premises, including wrongful death and property damage,
713 because of the intoxication of the person who consumed the
714 intoxicating beverages.

715 (4) The limitation of liability provided by this section
716 shall not apply to any person who causes or contributes to the
717 consumption of alcoholic beverages by force or by falsely
718 representing that a beverage contains no alcohol, or to any holder
719 of an alcoholic beverage, beer, light wine, or wine permit, or any

720 agent or employee of such holder when it is shown that the person
721 making a purchase of an alcoholic beverage was at the time of such
722 purchase visibly intoxicated.

723 **SECTION 27.** Section 67-3-74, Mississippi Code of 1972, is
724 amended as follows:

725 67-3-74. (1) In addition to peace officers within their
726 jurisdiction, all enforcement officers of the Alcoholic Beverage
727 Control Division of the State Tax Commission are authorized to
728 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,
729 67-3-53 and 67-3-70; * * * however, * * * the provisions
730 prohibiting the sale of * * * beer, light wine or wine to persons
731 under the age of twenty-one (21) years shall be enforced by the
732 division as provided for in this section.

733 (2) (a) The Alcoholic Beverage Control Division shall
734 investigate violations of the laws prohibiting the sale of * * *
735 beer, light wine or wine to persons under the age of twenty-one
736 (21) years upon receipt of a complaint or information from a
737 person stating that they have knowledge of such violation.

738 (b) Upon receipt of such complaint or information, the
739 Alcoholic Beverage Control Division shall notify the permit holder
740 of the complaint by certified mail to the primary business office
741 of such permit holder or by hand delivery of the complaint or
742 information to the primary business office of such holder, except
743 in cases where the complaint or information is received from any
744 law enforcement officer.

745 (c) If an enforcement officer of the Alcoholic Beverage
746 Control Division enters the business of the holder of the permit
747 to investigate a complaint and discovers a violation, the agent
748 shall notify the person that committed the violation and the
749 holder of the permit:

750 (i) Within ten (10) days after such violation,
751 Sundays and holidays excluded, if the business sells * * * beer,
752 light wine or wine for on-premises consumption; and

753 (ii) Within seventy-two (72) hours after such
754 violation, Sundays and holidays excluded, if the business does not
755 sell * * * beer, light wine or wine for on-premises consumption.

756 (3) The provisions of this section shall be repealed on July
757 1, 2005.

758 **SECTION 28.** Section 67-1-5, Mississippi Code of 1972, is
759 amended as follows:

760 67-1-5. For the purposes of this chapter and unless
761 otherwise required by the context:

762 (a) * * * "Alcoholic beverage" means any alcoholic
763 liquid * * * capable of being consumed as a beverage by a human
764 being, but shall not include beer, light wine or wine as defined
765 in Section 63-3-3. The term "alcoholic beverage" shall not
766 include ethyl alcohol manufactured or distilled solely for fuel
767 purposes.

768 (b) * * * "Alcohol" means the product of distillation
769 of any fermented liquid, whatever the origin thereof, and includes
770 synthetic ethyl alcohol, but does not include denatured alcohol or
771 wood alcohol.

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

776 * * *

777 (d) * * * "Person" means and includes any individual,
778 partnership, corporation, association or other legal entity
779 whatsoever.

780 (e) * * * "Manufacturer" means any person engaged in
781 manufacturing, distilling, rectifying, blending or bottling any
782 alcoholic beverage.

783 (f) * * * "Wholesaler" means any person, other than a
784 manufacturer, engaged in distributing or selling any alcoholic

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

787 (g) * * * "Retailer" means any person who sells,
788 distributes, or offers for sale or distribution, any alcoholic
789 beverage for use or consumption by the purchaser and not for
790 resale.

791 (h) * * * "Commission" means the State Tax Commission
792 of the State of Mississippi, which shall create a division in its
793 organization to be known as the Alcoholic Beverage Control
794 Division. Any reference to the commission hereafter means the
795 powers and duties of the State Tax Commission with reference to
796 supervision of the Alcoholic Beverage Control Division.

797 (i) * * * "Division" means the Alcoholic Beverage
798 Control Division of the State Tax Commission.

799 (j) * * * "Municipality" means any incorporated city or
800 town of this state.

801 (k) * * * "Hotel" means an establishment within a
802 municipality, or within a qualified resort area approved as such
803 by the commission, where, in consideration of payment, food and
804 lodging are habitually furnished to travelers and wherein are
805 located at least twenty (20) adequately furnished and completely
806 separate sleeping rooms with adequate facilities that persons
807 usually apply for and receive as overnight accommodations. Hotels
808 in towns or cities of more than twenty-five thousand (25,000)
809 population are similarly defined except that they must have fifty
810 (50) or more sleeping rooms. Any such establishment described in
811 this paragraph with less than fifty (50) beds shall operate one or
812 more regular dining rooms designed to be constantly frequented by
813 customers each day. When used in this chapter, the word "hotel"
814 shall also be construed to include any establishment that meets
815 the definition of "bed and breakfast inn" as provided in this
816 section.

817 (l) * * * "Restaurant" means a place which is regularly
818 and in a bona fide manner used and kept open for the serving of
819 meals to guests for compensation, which has suitable seating
820 facilities for guests, and which has suitable kitchen facilities
821 connected therewith for cooking an assortment of foods and meals
822 commonly ordered at various hours of the day; the service of such
823 food as sandwiches and salads only shall not be deemed in
824 compliance with this requirement. No place shall qualify as a
825 restaurant under this chapter unless twenty-five percent (25%) or
826 more of the revenue derived from such place shall be from the
827 preparation, cooking and serving of meals and not from the sale of
828 beverages, or unless the value of food given to and consumed by
829 customers is equal to twenty-five percent (25%) or more of total
830 revenue.

831 (m) * * * "Club" means an association or a corporation:

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

834 (2) Organized not primarily for pecuniary profit
835 but for the promotion of some common object other than the sale or
836 consumption of alcoholic beverages;

837 (3) Maintained by its members through the payment
838 of annual dues;

839 (4) Owning, hiring or leasing a building or space
840 in a building of such extent and character as may be suitable and
841 adequate for the reasonable and comfortable use and accommodation
842 of its members and their guests;

843 (5) The affairs and management of which are
844 conducted by a board of directors, board of governors, executive
845 committee, or similar governing body chosen by the members at a
846 regular meeting held at some periodic interval; and

847 (6) No member, officer, agent or employee of which
848 is paid, or directly or indirectly receives, in the form of a
849 salary or other compensation any profit from the distribution or

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

854 The commission may, in its discretion, waive the five-year
855 provision of this paragraph. In order to qualify under this
856 paragraph, a club must file with the commission, at the time of
857 its application for a license under this chapter, two (2) copies
858 of a list of the names and residences of its members and similarly
859 file, within ten (10) days after the election of any additional
860 member, his name and address. Each club applying for a license
861 shall also file with the commission at the time of the application
862 a copy of its articles of association, charter of incorporation,
863 bylaws or other instruments governing the business and affairs
864 thereof.

865 (n) * * * "Qualified resort area" means any area or
866 locality outside of the limits of incorporated municipalities in
867 this state commonly known and accepted as a place which regularly
868 and customarily attracts tourists, vacationists and other
869 transients because of its historical, scenic or recreational
870 facilities or attractions, or because of other attributes which
871 regularly and customarily appeal to and attract tourists,
872 vacationists and other transients in substantial numbers; however,
873 no area or locality shall so qualify as a resort area until it has
874 been duly and properly approved as such by the commission.

875 (i) The commission may approve an area or locality
876 outside of the limits of an incorporated municipality that is in
877 the process of being developed as a qualified resort area if such
878 area or locality, when developed, can reasonably be expected to
879 meet the requisites of the definition of the term "qualified
880 resort area." In such a case, the status of qualified resort area
881 shall not take effect until completion of the development.

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

890 (iii) The term includes the clubhouses associated
891 with the state park golf courses at the Lefleur's Bluff State
892 Park, the John Kyle State Park, the Percy Quin State Park and the
893 Hugh White State Park. The status of these clubhouses as
894 qualified resort areas does not require any declaration of same by
895 the commission.

896 * * *

897 (o) * * * "Native winery" means any place or
898 establishment within the State of Mississippi where native wine is
899 produced in whole or in part for sale.

900 (p) * * * "Bed and breakfast inn" means an
901 establishment within a municipality where in consideration of
902 payment, breakfast and lodging are habitually furnished to
903 travelers and wherein are located not less than eight (8) and not
904 more than nineteen (19) adequately furnished and completely
905 separate sleeping rooms with adequate facilities, that persons
906 usually apply for and receive as overnight accommodations;
907 however, such restriction on the minimum number of sleeping rooms
908 shall not apply to establishments on the National Register of
909 Historic Places. No place shall qualify as a bed and breakfast
910 inn under this chapter unless on the date of the initial
911 application for a license under this chapter more than fifty
912 percent (50%) of the sleeping rooms are located in a structure
913 formerly used as a residence.

914 **SECTION 29.** Section 67-1-7, Mississippi Code of 1972, is
915 amended as follows:

916 67-1-7. (1) Except as otherwise provided in Section 67-9-1
917 for the transportation and possession of limited amounts of
918 alcoholic beverages for the use of an alcohol processing
919 permittee, and subject to all of the provisions and restrictions
920 contained in this chapter, the manufacture, sale, distribution,
921 possession and transportation of alcoholic beverages shall be
922 lawful, subject to the restrictions hereinafter imposed, in those
923 counties and municipalities of this state in which, at a local
924 option election called and held for that purpose under the
925 provisions of this chapter, a majority of the qualified electors
926 voting in such election shall vote in favor thereof. The
927 manufacture, sale and distribution of alcoholic beverages shall
928 not be permissible or lawful in counties except in (a)
929 incorporated municipalities located within such counties, (b)
930 qualified resort areas within such counties approved as such by
931 the State Tax Commission, or (c) clubs within such counties,
932 whether within a municipality or not. * * *

933 (2) Notwithstanding the foregoing, within any state park or
934 any state park facility which has been declared a qualified resort
935 area by the commission and any clubhouse that is a qualified
936 resort area under Section 67-1-5(o)(iii), an on-premises
937 retailer's permittee may lawfully sell alcoholic beverages for
938 consumption on his licensed premises regardless of whether or not
939 the county or municipality in which the park is located has voted
940 in favor of coming out from under the dry law.

941 **SECTION 30.** Section 67-1-9, Mississippi Code of 1972, is
942 amended as follows:

943 67-1-9. (1) It shall be unlawful for any person to
944 manufacture, distill, brew, sell, possess, import into this state,
945 export from the state, transport, distribute, warehouse, store,
946 solicit, take order for, bottle, rectify, blend, treat, mix or

947 process any alcoholic beverage except as authorized in this
948 chapter. However, nothing contained herein shall prevent
949 importers * * * and distillers of alcoholic beverages from storing
950 such alcoholic beverages in private bonded warehouses located
951 within the State of Mississippi for the ultimate use and benefit
952 of the State Tax Commission as provided in Section 67-1-41. The
953 commission is hereby authorized to promulgate rules and
954 regulations for the establishment of such private bonded
955 warehouses and for the control of alcoholic beverages stored in
956 such warehouses. Additionally, nothing herein contained shall
957 prevent any duly licensed practicing physician or dentist from
958 possessing or using alcoholic liquor in the strict practice of his
959 profession, or prevent any hospital or other institution caring
960 for sick and diseased persons, from possessing and using alcoholic
961 liquor for the treatment of bona fide patients of such hospital or
962 other institution. Any drugstore employing a licensed pharmacist
963 may possess and use alcoholic liquors in the combination of
964 prescriptions of duly licensed physicians. * * *

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

967 (a) By a fine of not less than One Hundred Dollars
968 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
969 imprisonment in the county jail not less than one (1) week nor
970 more than three (3) months, or both, for the first conviction
971 under this section.

972 (b) By a fine of not less than One Hundred Dollars
973 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
974 imprisonment in the county jail not less than sixty (60) days, nor
975 more than six (6) months, or both fine and imprisonment, for the
976 second conviction for violating this section.

977 (c) By a fine of not less than One Hundred Dollars
978 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
979 imprisonment in the State Penitentiary not less than one (1) year,

980 nor more than five (5) years, or both fine and imprisonment, for
981 conviction the third time under this section for the violation
982 thereof after having been twice convicted of its violation.

983 **SECTION 31.** Section 67-1-13, Mississippi Code of 1972, is
984 amended as follows:

985 67-1-13. * * * When this chapter has been made effective and
986 operative in any county as a result of an election called and held
987 as provided in Section 67-1-11, the same may be made ineffective
988 and inapplicable therein by an election called and held upon a
989 petition filed with the board of supervisors requesting same
990 signed by at least twenty percent (20%) or fifteen hundred (1500),
991 whichever number is the lesser, of the qualified electors of the
992 county as is otherwise provided in Section 67-1-11, all of the
993 provisions of which shall be fully applicable thereto. However,
994 nothing herein shall authorize or permit the calling and holding
995 of any election under this chapter in any county more often than
996 once every two (2) years. If in such election, a majority of the
997 qualified electors participating therein shall vote against the
998 legalized sale of intoxicating liquor, then the prohibition laws
999 of the State of Mississippi, except as otherwise provided under
1000 Section 67-9-1, shall become applicable in said county.

1001 * * *

1002 **SECTION 32.** Section 67-1-37, Mississippi Code of 1972, is
1003 amended as follows:

1004 **[Until July 1, 2005, this section will read as follows:]**

1005 67-1-37. The State Tax Commission, under its duties and
1006 powers with respect to the Alcoholic Beverage Control Division
1007 therein, shall have the following powers, functions and duties:

1008 (a) To issue or refuse to issue any permit provided for
1009 by this chapter, or to extend the permit or remit in whole or any
1010 part of the permit monies when the permit cannot be used due to a
1011 natural disaster or Act of God.

1012 (b) To revoke, suspend or cancel, for violation of or
1013 noncompliance with the provisions of this chapter, * * * or any
1014 lawful rules and regulations of the commission issued hereunder,
1015 or for other sufficient cause, any permit issued by it under the
1016 provisions of this chapter; however, no such permit shall be
1017 revoked, suspended or cancelled except after a hearing of which
1018 the permit holder shall have been given reasonable notice and an
1019 opportunity to be heard. The board shall be authorized to suspend
1020 the permit of any permit holder for being out of compliance with
1021 an order for support, as defined in Section 93-11-153. The
1022 procedure for suspension of a permit for being out of compliance
1023 with an order for support, and the procedure for the reissuance or
1024 reinstatement of a permit suspended for that purpose, and the
1025 payment of any fees for the reissuance or reinstatement of a
1026 permit suspended for that purpose, shall be governed by Section
1027 93-11-157 or Section 93-11-163, as the case may be. If there is
1028 any conflict between any provision of Section 93-11-157 or Section
1029 93-11-163 and any provision of this chapter, the provisions of
1030 Section 93-11-157 or Section 93-11-163, as the case may be, shall
1031 control.

1032 (c) To prescribe forms of permits and applications for
1033 permits and of all reports which it deems necessary in
1034 administering this chapter.

1035 (d) To fix standards, not in conflict with those
1036 prescribed by any law of this state or of the United States, to
1037 secure the use of proper ingredients and methods of manufacture of
1038 alcoholic beverages.

1039 (e) To issue rules regulating the advertising of
1040 alcoholic beverages in the state in any class of media and
1041 permitting advertising of the retail price of alcoholic beverages.

1042 (f) To issue reasonable rules and regulations, not
1043 inconsistent with the federal laws or regulations, requiring
1044 informative labeling of all alcoholic beverages offered for sale

1045 within this state and providing for the standards of fill and
1046 shapes of retail containers of alcoholic beverages; however, such
1047 containers shall not contain less than fifty (50) milliliters by
1048 liquid measure.

1049 (g) Subject to the provisions of subsection (3) of
1050 Section 67-1-51, to issue rules and regulations governing the
1051 issuance of retail permits for premises located near or around
1052 schools, colleges, universities, churches and other public
1053 institutions, and specifying the distances therefrom within which
1054 no such permit shall be issued. The Alcoholic Beverage Control
1055 Division shall not allow the sale or consumption of alcoholic
1056 beverages in or on the campus of any public school or college, and
1057 no alcoholic beverage shall be for sale or consumed at any public
1058 athletic event at any grammar or high school or any college.

1059 (h) To adopt and promulgate, repeal and amend, such
1060 rules, regulations, standards, requirements and orders, not
1061 inconsistent with this chapter or any law of this state or of the
1062 United States, as it deems necessary to control the manufacture,
1063 importation, transportation, distribution and sale of alcoholic
1064 liquor, whether intended for beverage or nonbeverage use in a
1065 manner not inconsistent with the provisions of this chapter or any
1066 other statute, including the native wine laws.

1067 (i) To call upon other administrative departments of
1068 the state, county and municipal governments, county and city
1069 police departments and upon prosecuting officers for such
1070 information and assistance as it may deem necessary in the
1071 performance of its duties.

1072 (j) To prepare and submit to the Governor during the
1073 month of January of each year a detailed report of its official
1074 acts during the preceding fiscal year ending June 30, including
1075 such recommendations as it may see fit to make, and to transmit a
1076 like report to each member of the Legislature of this state upon
1077 the convening thereof at its next regular session.

1078 (k) To inspect, or cause to be inspected, any premises
1079 where alcoholic liquors intended for sale are manufactured,
1080 stored, distributed or sold, and to examine or cause to be
1081 examined all books and records pertaining to the business
1082 conducted therein.

1083 (l) In the conduct of any hearing authorized to be held
1084 by the commission, to hear testimony and take proof material for
1085 its information in the discharge of its duties under this chapter;
1086 to issue subpoenas, which shall be effective in any part of this
1087 state, requiring the attendance of witnesses and the production of
1088 books and records; to administer or cause to be administered
1089 oaths; and to examine or cause to be examined any witness under
1090 oath. Any court of record, or any judge thereof, may by order
1091 duly entered require the attendance of witnesses and the
1092 production of relevant books subpoenaed by the commission, and
1093 such court or judge may compel obedience to its or his order by
1094 proceedings for contempt.

1095 (m) To investigate the administration of laws in
1096 relation to alcoholic liquors in this and other states and any
1097 foreign countries, and to recommend from time to time to the
1098 Governor and through him to the Legislature of this state such
1099 amendments to this chapter, if any, as it may think desirable.

1100 (n) To designate hours and days when alcoholic
1101 beverages may be sold in different localities in the state which
1102 permit such sale.

1103 (o) To assign employees to posts of duty at locations
1104 where they will be most beneficial for the control of alcoholic
1105 beverages, to remove, to dismiss, to suspend without pay, to act
1106 as a trial board in hearings based upon charges against employees.
1107 After twelve (12) months' service, no employee shall be removed,
1108 dismissed, demoted or suspended without just cause and only after
1109 being furnished with reasons for such removal, dismissal, demotion

1110 or suspension, and upon request given a hearing in his own
1111 defense.

1112 (p) All hearings conducted by the commission shall be
1113 open to the public, and, when deemed necessary, a written
1114 transcript shall be made of the testimony introduced thereat.

1115 (q) To adopt and promulgate rules and regulations for
1116 suspension or revocation of identification cards of employees of
1117 permittees for violations of the alcoholic beverage control laws,
1118 rules or regulations.

1119 (r) To enforce the provisions made unlawful by Sections
1120 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

1121 **[From and after July 1, 2005, this section will read as**
1122 **follows:]**

1123 67-1-37. The State Tax Commission, under its duties and
1124 powers with respect to the Alcoholic Beverage Control Division
1125 therein, shall have the following powers, functions and duties:

1126 (a) To issue or refuse to issue any permit provided for
1127 by this chapter, or to extend the permit or remit in whole or any
1128 part of the permit monies when the permit cannot be used due to a
1129 natural disaster or Act of God.

1130 (b) To revoke, suspend or cancel, for violation of or
1131 noncompliance with the provisions of this chapter, * * * or any
1132 lawful rules and regulations of the commission issued hereunder,
1133 or for other sufficient cause, any permit issued by it under the
1134 provisions of this chapter; however, no such permit shall be
1135 revoked, suspended or cancelled except after a hearing of which
1136 the permit holder shall have been given reasonable notice and an
1137 opportunity to be heard. The board shall be authorized to suspend
1138 the permit of any permit holder for being out of compliance with
1139 an order for support, as defined in Section 93-11-153. The
1140 procedure for suspension of a permit for being out of compliance
1141 with an order for support, and the procedure for the reissuance or
1142 reinstatement of a permit suspended for that purpose, and the

1143 payment of any fees for the reissuance or reinstatement of a
1144 permit suspended for that purpose, shall be governed by Section
1145 93-11-157 or 93-11-163, as the case may be. If there is any
1146 conflict between any provision of Section 93-11-157 or 93-11-163
1147 and any provision of this chapter, the provisions of Section
1148 93-11-157 or 93-11-163, as the case may be, shall control.

1149 (c) To prescribe forms of permits and applications for
1150 permits and of all reports which it deems necessary in
1151 administering this chapter.

1152 (d) To fix standards, not in conflict with those
1153 prescribed by any law of this state or of the United States, to
1154 secure the use of proper ingredients and methods of manufacture of
1155 alcoholic beverages.

1156 (e) To issue rules regulating the advertising of
1157 alcoholic beverages in the state in any class of media and
1158 permitting advertising of the retail price of alcoholic beverages.

1159 (f) To issue reasonable rules and regulations, not
1160 inconsistent with the federal laws or regulations, requiring
1161 informative labeling of all alcoholic beverages offered for sale
1162 within this state and providing for the standards of fill and
1163 shapes of retail containers of alcoholic beverages; however, such
1164 containers shall not contain less than fifty (50) milliliters by
1165 liquid measure.

1166 (g) Subject to the provisions of subsection (3) of
1167 Section 67-1-51, to issue rules and regulations governing the
1168 issuance of retail permits for premises located near or around
1169 schools, colleges, universities, churches and other public
1170 institutions, and specifying the distances therefrom within which
1171 no such permit shall be issued. The Alcoholic Beverage Control
1172 Division shall not allow the sale or consumption of alcoholic
1173 beverages in or on the campus of any public school or college, and
1174 no alcoholic beverage shall be for sale or consumed at any public
1175 athletic event at any grammar or high school or any college.

1176 (h) To adopt and promulgate, repeal and amend, such
1177 rules, regulations, standards, requirements and orders, not
1178 inconsistent with this chapter or any law of this state or of the
1179 United States, as it deems necessary to control the manufacture,
1180 importation, transportation, distribution and sale of alcoholic
1181 liquor, whether intended for beverage or nonbeverage use in a
1182 manner not inconsistent with the provisions of this chapter or any
1183 other statute, including the native wine laws.

1184 (i) To call upon other administrative departments of
1185 the state, county and municipal governments, county and city
1186 police departments and upon prosecuting officers for such
1187 information and assistance as it may deem necessary in the
1188 performance of its duties.

1189 (j) To prepare and submit to the Governor during the
1190 month of January of each year a detailed report of its official
1191 acts during the preceding fiscal year ending June 30, including
1192 such recommendations as it may see fit to make, and to transmit a
1193 like report to each member of the Legislature of this state upon
1194 the convening thereof at its next regular session.

1195 (k) To inspect, or cause to be inspected, any premises
1196 where alcoholic liquors intended for sale are manufactured,
1197 stored, distributed or sold, and to examine or cause to be
1198 examined all books and records pertaining to the business
1199 conducted therein.

1200 (l) In the conduct of any hearing authorized to be held
1201 by the commission, to hear testimony and take proof material for
1202 its information in the discharge of its duties under this chapter;
1203 to issue subpoenas, which shall be effective in any part of this
1204 state, requiring the attendance of witnesses and the production of
1205 books and records; to administer or cause to be administered
1206 oaths; and to examine or cause to be examined any witness under
1207 oath. Any court of record, or any judge thereof, may by order
1208 duly entered require the attendance of witnesses and the

1209 production of relevant books subpoenaed by the commission, and
1210 such court or judge may compel obedience to its or his order by
1211 proceedings for contempt.

1212 (m) To investigate the administration of laws in
1213 relation to alcoholic liquors in this and other states and any
1214 foreign countries, and to recommend from time to time to the
1215 Governor and through him to the Legislature of this state such
1216 amendments to this chapter, if any, as it may think desirable.

1217 (n) To designate hours and days when alcoholic
1218 beverages may be sold in different localities in the state which
1219 permit such sale.

1220 (o) To assign employees to posts of duty at locations
1221 where they will be most beneficial for the control of alcoholic
1222 beverages, to remove, to dismiss, to suspend without pay, to act
1223 as a trial board in hearings based upon charges against employees.
1224 After twelve (12) months' service, no employee shall be removed,
1225 dismissed, demoted or suspended without just cause and only after
1226 being furnished with reasons for such removal, dismissal, demotion
1227 or suspension, and upon request given a hearing in his own
1228 defense.

1229 (p) All hearings conducted by the commission shall be
1230 open to the public, and, when deemed necessary, a written
1231 transcript shall be made of the testimony introduced thereat.

1232 (q) To adopt and promulgate rules and regulations for
1233 suspension or revocation of identification cards of employees of
1234 permittees for violations of the alcoholic beverage control laws,
1235 rules or regulations.

1236 **SECTION 33.** Section 67-1-41, Mississippi Code of 1972, is
1237 amended as follows:

1238 67-1-41. (1) The State Tax Commission is hereby created a
1239 wholesale distributor and seller of alcoholic beverages, not
1240 including beer, light wine or wine, as defined in Section 67-3-3,
1241 within the State of Mississippi. It is granted the sole right to

1242 import and sell such intoxicating liquors at wholesale within the
1243 state, and no person who is granted the right to sell, distribute
1244 or receive such liquors at retail shall purchase any such
1245 intoxicating liquors from any source other than the commission
1246 except as authorized in subsections (4) and (9) of this
1247 section * * *. The commission may establish warehouses, purchase
1248 intoxicating liquors in such quantities and from such sources as
1249 it may deem desirable and sell the same to authorized permittees
1250 within the state including, at the discretion of the commission,
1251 any retail distributors operating within any military post or
1252 qualified resort areas within the boundaries of the state, keeping
1253 a correct and accurate record of all such transactions and
1254 exercising such control over the distribution of alcoholic
1255 beverages as seem right and proper in keeping with the provisions
1256 or purposes of this chapter.

1257 The commission is empowered to borrow such working capital as
1258 may be required, not to exceed the sum of Nine Hundred Thousand
1259 Dollars (\$900,000.00). Such loan shall be repaid from the
1260 earnings of the wholesale liquor business.

1261 The commission is hereby authorized to use and to promulgate
1262 rules for the affixing of identification stamps to each container
1263 of alcoholic liquor.

1264 (2) No person for the purpose of sale shall manufacture,
1265 distill, brew, sell, possess, export, transport, distribute,
1266 warehouse, store, solicit, take orders for, bottle, rectify,
1267 blend, treat, mix or process any alcoholic beverage except in
1268 accordance with authority granted under this chapter, or as
1269 otherwise provided by law for native wines.

1270 (3) No alcoholic beverage intended for sale or resale shall
1271 be imported, shipped or brought into this state for delivery to
1272 any person other than as provided in this chapter * * *.

1273 (4) The commission may promulgate rules and regulations
1274 which authorize on-premises retailers to purchase limited amounts

1275 of alcoholic beverages from package retailers and for package
1276 retailers to purchase limited amounts of alcoholic beverages from
1277 other package retailers. The commission shall develop and provide
1278 forms to be completed by the on-premises retailers and the package
1279 retailers verifying the transaction. The completed forms shall be
1280 forwarded to the commission within a period of time prescribed by
1281 the commission.

1282 (5) The commission may promulgate rules which authorize the
1283 holder of a package retailer's permit to permit individual retail
1284 purchasers of packages of alcoholic beverages to return, for
1285 exchange, credit or refund, limited amounts of original sealed and
1286 unopened packages of alcoholic beverages purchased by such
1287 individual from the package retailer.

1288 (6) The commission shall maintain all forms to be completed
1289 by applicants necessary for licensure by the commission at all
1290 district offices of the commission.

1291 (7) The commission may promulgate rules which authorize the
1292 manufacturer of an alcoholic beverage * * * to import, transport
1293 and furnish or give a sample of alcoholic beverages * * * to the
1294 holders of package retailer's permits, on-premises retailer's
1295 permits * * * and temporary retailer's permits who have not
1296 previously purchased the brand of that manufacturer from the
1297 commission. For each holder of the designated permits, the
1298 manufacturer may furnish not more than five hundred (500)
1299 milliliters of any brand of alcoholic beverage and not more than
1300 three (3) liters of any brand of wine.

1301 (8) The commission may promulgate rules disallowing open
1302 product sampling of alcoholic beverages or wines by the holders of
1303 package retailer's permits and permitting open product sampling of
1304 alcoholic beverages by the holders of on-premises retailer's
1305 permits. Permitted sample products shall be plainly identified
1306 "sample" and the actual sampling must occur in the presence of the

1307 manufacturer's representatives during the legal operating hours of
1308 on-premises retailers.

1309 (9) The commission may promulgate rules and regulations that
1310 authorize the holder of a research permit to import and purchase
1311 limited amounts of alcoholic beverages from importers * * * and
1312 distillers of alcoholic beverages or from the commission. The
1313 commission shall develop and provide forms to be completed by the
1314 research permittee verifying each transaction. The completed
1315 forms shall be forwarded to the commission within a period of time
1316 prescribed by the commission. The records and inventory of
1317 alcoholic beverages shall be open to inspection at any time by the
1318 Director of the Alcoholic Beverage Control Division or any duly
1319 authorized agent.

1320 **SECTION 34.** Section 67-1-43, Mississippi Code of 1972, is
1321 amended as follows:

1322 67-1-43. Any authorized retail distributor who shall
1323 purchase or receive alcoholic beverages from any source except
1324 from the commission, unless authorized by rules and regulations of
1325 the commission promulgated under subsection (4) of Section
1326 67-1-41, shall be guilty of a misdemeanor and upon conviction
1327 thereof shall be punished by a fine of not less than Five Hundred
1328 Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00),
1329 to which may be added imprisonment in the county jail for not more
1330 than six (6) months. Any authorization of such person to sell
1331 intoxicating beverages may be revoked as provided by law.

1332 * * *

1333 **SECTION 35.** Section 67-1-45, Mississippi Code of 1972, is
1334 amended as follows:

1335 67-1-45. No manufacturer, rectifier, or distiller of
1336 intoxicating liquor shall sell or attempt to sell any such
1337 intoxicating liquor, except beer, light wine or wine, within the
1338 State of Mississippi, except to the commission, or to the holder
1339 of a research permit as provided in Section 67-1-41. * * *

1340 Any violation of this section by any manufacturer, rectifier,
1341 or distiller shall be punished by a fine of not less than Five
1342 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
1343 (\$2,000.00), to which may be added imprisonment in the county jail
1344 not to exceed six (6) months.

1345 **SECTION 36.** Section 67-1-51, Mississippi Code of 1972, is
1346 amended as follows:

1347 67-1-51. (1) Permits which may be issued by the commission
1348 shall be as follows:

1349 (a) **Manufacturer's permit.** A manufacturer's permit
1350 shall * * * authorize the holder thereof to operate a distillery
1351 for the production of distilled spirits by distillation or
1352 redistillation and/or to operate a rectifying plant for the
1353 purifying, refining, mixing, blending, flavoring or reducing in
1354 proof of distilled spirits and alcohol.

1355 * * *

1356 (b) **Package retailer's permit.** Except as otherwise
1357 provided in this paragraph, a package retailer's permit shall
1358 authorize the holder thereof to operate a store exclusively for
1359 the sale at retail in original sealed and unopened packages of
1360 alcoholic beverages, * * * not to be consumed on the premises
1361 where sold. Alcoholic beverages shall not be sold by any retailer
1362 in any package or container containing less than fifty (50)
1363 milliliters by liquid measure. In addition to the sale at retail
1364 of packages of alcoholic beverages, the holder of a package
1365 retailer's permit is authorized to sell at retail corkscrews, wine
1366 glasses, soft drinks, ice, juices, mixers and other beverages
1367 commonly used to mix with alcoholic beverages. Nonalcoholic
1368 beverages sold by the holder of a package retailer's permit shall
1369 not be consumed on the premises where sold.

1370 (c) **On-premises retailer's permit.** An on-premises
1371 retailer's permit shall authorize the sale of alcoholic
1372 beverages * * * for consumption on the licensed premises only.

1373 Such a permit shall issue only to qualified hotels, restaurants
1374 and clubs, and to common carriers with adequate facilities for
1375 serving passengers. In resort areas, whether inside or outside of
1376 a municipality, the commission may, in its discretion, issue
1377 on-premises retailer's permits to such establishments as it deems
1378 proper. An on-premises retailer's permit when issued to a common
1379 carrier shall authorize the sale and serving of alcoholic
1380 beverages aboard any licensed vehicle while moving through any
1381 county of the state; however, the sale of such alcoholic beverages
1382 shall not be permitted while such vehicle is stopped in a county
1383 that has not legalized such sales.

1384 (d) **Solicitor's permit.** A solicitor's permit shall
1385 authorize the holder thereof to act as salesman for a manufacturer
1386 or wholesaler holding a proper permit, to solicit on behalf of his
1387 employer orders for alcoholic beverages, and to otherwise promote
1388 his employer's products in a legitimate manner. Such a permit
1389 shall authorize the representation of and employment by one (1)
1390 principal only. However, the permittee may also, in the
1391 discretion of the commission, be issued additional permits to
1392 represent other principals. No such permittee shall buy or sell
1393 alcoholic beverages for his own account, and no such beverage
1394 shall be brought into this state in pursuance of the exercise of
1395 such permit otherwise than through a permit issued to a wholesaler
1396 or manufacturer in the state.

1397 * * *

1398 (e) **Temporary retailer's permit.** A temporary
1399 retailer's permit shall permit the purchase and resale of
1400 alcoholic beverages * * * during legal hours on the premises
1401 described in the temporary permit only.

1402 Temporary retailer's permits shall be of the following
1403 classes:

1404 Class 1. A temporary one-day permit may be issued to bona
1405 fide nonprofit civic or charitable organizations authorizing the

1406 sale of alcoholic beverages * * * for consumption on the premises
1407 described in the temporary permit only. Class 1 permits may be
1408 issued only to applicants demonstrating to the commission, by
1409 affidavit submitted ten (10) days prior to the proposed date or
1410 such other time as the commission may determine, that they meet
1411 the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and
1412 (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
1413 Class 1 permittees shall obtain all alcoholic beverages from
1414 package retailers located in the county in which the temporary
1415 permit is issued. Alcoholic beverages remaining in stock upon
1416 expiration of the temporary permit may be returned by the
1417 permittee to the package retailer for a refund of the purchase
1418 price upon consent of the package retailer or may be kept by the
1419 permittee exclusively for personal use and consumption, subject to
1420 all laws pertaining to the illegal sale and possession of
1421 alcoholic beverages. The commission, following review of the
1422 affidavit and the requirements of the applicable statutes and
1423 regulations, may issue the permit.

1424 Class 2. A temporary permit, not to exceed seventy (70)
1425 days, may be issued to prospective permittees seeking to transfer
1426 a permit authorized in either paragraph (b) or (c) of this
1427 section. A Class 2 permit may be issued only to applicants
1428 demonstrating to the commission, by affidavit, that they meet the
1429 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
1430 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
1431 commission, following a preliminary review of the affidavit and
1432 the requirements of the applicable statutes and regulations, may
1433 issue the permit.

1434 Class 2 temporary permittees must purchase their alcoholic
1435 beverages directly from the commission or, with approval of the
1436 commission, purchase the remaining stock of the previous
1437 permittee. If the proposed applicant of a Class 1 or Class 2
1438 temporary permit falsifies information contained in the

1439 application or affidavit, the applicant shall never again be
1440 eligible for a retail alcohol beverage permit and shall be subject
1441 to prosecution for perjury.

1442 (f) **Caterer's permit.** A caterer's permit shall permit
1443 the purchase of alcoholic beverages by a person engaging in
1444 business as a caterer and the resale of alcoholic beverages by
1445 such person in conjunction with such catering business. No person
1446 shall qualify as a caterer unless forty percent (40%) or more of
1447 the revenue derived from such catering business shall be from the
1448 serving of prepared food and not from the sale of alcoholic
1449 beverages and unless such person has obtained a permit for such
1450 business from the Department of Health. A caterer's permit shall
1451 not authorize the sale of alcoholic beverages on the premises of
1452 the person engaging in business as a caterer; however, the holder
1453 of an on-premises retailer's permit may hold a caterer's permit.
1454 All sales of alcoholic beverages by holders of a caterer's permit
1455 shall be made at the location being catered by the caterer, and
1456 such sales may be made only for consumption at the catered
1457 location. Such sales shall be made pursuant to any other
1458 conditions and restrictions which apply to sales made by
1459 on-premises retail permittees. The holder of a caterer's permit
1460 or his employees shall remain at the catered location as long as
1461 alcoholic beverages are being sold pursuant to the permit issued
1462 under this paragraph (f), and the permittee and employees at such
1463 location shall each have personal identification cards issued by
1464 the Alcoholic Beverage Control Division of the commission. No
1465 unsold alcoholic beverages may be left at the catered location by
1466 the permittee upon the conclusion of his business at that
1467 location. Appropriate law enforcement officers and Alcoholic
1468 Beverage Control Division personnel may enter a catered location
1469 on private property in order to enforce laws governing the sale or
1470 serving of alcoholic beverages.

1471 (g) **Research Permit.** A research permit shall authorize
1472 the holder thereof to operate a research facility for the
1473 professional research of alcoholic beverages. Such permit shall
1474 authorize the holder of the permit to import and purchase limited
1475 amounts of alcoholic beverages from the commission or from
1476 importers * * * and distillers of alcoholic beverages for
1477 professional research.

1478 (h) **Alcohol processing permit.** An alcohol processing
1479 permit shall authorize the holder thereof to purchase, transport
1480 and possess alcoholic beverages for the exclusive use in cooking,
1481 processing or manufacturing products which contain alcoholic
1482 beverages as an integral ingredient. An alcohol processing permit
1483 shall not authorize the sale of alcoholic beverages on the
1484 premises of the person engaging in the business of cooking,
1485 processing or manufacturing products which contain alcoholic
1486 beverages. The amounts of alcoholic beverages allowed under an
1487 alcohol processing permit shall be set by the commission.

1488 (2) Except as otherwise provided in subsection (4) of this
1489 section, retail permittees may hold more than one (1) retail
1490 permit, at the discretion of the commission.

1491 (3) Except as otherwise provided in this subsection, no
1492 authority shall be granted to any person to manufacture, sell or
1493 store for sale any intoxicating liquor as specified in this
1494 chapter within four hundred (400) feet of any church, school,
1495 kindergarten or funeral home. However, within an area zoned
1496 commercial or business, such minimum distance shall be not less
1497 than one hundred (100) feet.

1498 A church or funeral home may waive the distance restrictions
1499 imposed in this subsection in favor of allowing issuance by the
1500 commission of a permit, pursuant to subsection (1) of this
1501 section, to authorize activity relating to the manufacturing, sale
1502 or storage of alcoholic beverages which would otherwise be
1503 prohibited under the minimum distance criterion. Such waiver

1504 shall be in written form from the owner, the governing body, or
1505 the appropriate officer of the church or funeral home having the
1506 authority to execute such a waiver, and the waiver shall be filed
1507 with and verified by the commission before becoming effective.

1508 The distance restrictions imposed in this subsection shall
1509 not apply to the sale or storage of alcoholic beverages at a bed
1510 and breakfast inn listed in the National Register of Historic
1511 Places.

1512 (4) No person, either individually or as a member of a firm,
1513 partnership or association, or as a stockholder, officer or
1514 director in a corporation, shall own or control any interest in
1515 more than one (1) package retailer's permit, nor shall such
1516 person's spouse, if living in the same household of such person,
1517 any relative of such person, if living in the same household of
1518 such person, or any other person living in the same household with
1519 such person own any interest in any other package retailer's
1520 permit.

1521 **SECTION 37.** Section 67-1-73, Mississippi Code of 1972, is
1522 amended as follows:

1523 67-1-73. Every manufacturer, * * * within or without the
1524 state, and every other shipper of alcoholic beverages who sells
1525 any alcoholic beverage, * * * within the state, shall, at the time
1526 of making such sale, file with the commission a copy of the
1527 invoice of such sale showing in detail the kind of alcoholic
1528 beverage sold, the quantities of each, the size of the container
1529 and the weight of the contents, the alcoholic content, and the
1530 name and address of the person to whom sold.

1531 Every person transporting alcoholic beverages * * * within
1532 this state to a point within this state, whether such
1533 transportation originates within or without this state, shall,
1534 within five (5) days after delivery of such shipment, furnish the
1535 commission a copy of the bill of lading or receipt, showing the
1536 name or consignor or consignee, date, place received, destination,

1537 and quantity of alcoholic beverages delivered. Upon failure to
1538 comply with the provisions of this section, such person shall be
1539 deemed guilty of a misdemeanor and upon conviction thereof shall
1540 be fined in the sum of Fifty Dollars (\$50.00) for each offense.

1541 **SECTION 38.** Section 67-1-77, Mississippi Code of 1972, is
1542 amended as follows:

1543 67-1-77. (1) It shall be unlawful for the holder of a
1544 manufacturer's or wholesaler's permit, or anyone connected with
1545 the business of such holder, or for any other distiller, * * *
1546 brewer, rectifier, blender, or bottler, to have any financial
1547 interest in any premises upon which any alcoholic beverage is sold
1548 at retail by any permittee, or in the business conducted by such
1549 permittee; * * * however, the holder of a manufacturer's or
1550 wholesaler's permit may contract for the service of a
1551 representative in the area of governmental affairs on a part-time
1552 basis with a holder of an on-premises permit.

1553 (2) It shall also be unlawful for any such person, or anyone
1554 connected with his, its, or their business to lend any money or
1555 make any gift or offer any gratuity, to any retail permittee,
1556 except as authorized by regulations of the commission, to the
1557 holder of any retail permit issued under the provisions of this
1558 chapter. Except as above provided, no retail permittee shall
1559 accept, receive, or make use of any money or gift furnished by any
1560 such person, or become indebted to such person except for the
1561 purchase of alcoholic beverages.

1562 (3) The commission shall not prohibit the furnishing of
1563 advertising specialties, printed materials, or other things having
1564 nominal value to a retail permittee. This section shall not be
1565 construed to prohibit the possession by any person of advertising
1566 specialties, printed materials, or other things having nominal
1567 value furnished by a retail permittee.

1568 (4) Any person violating the provisions of this section
1569 shall, upon conviction, be punished by a fine of not more than

1570 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1571 than two (2) years, or by both such fine and imprisonment, in the
1572 discretion of the court.

1573 **SECTION 39.** Section 67-5-5, Mississippi Code of 1972, is
1574 amended as follows:

1575 67-5-5. For purposes of this chapter, the following words
1576 and phrases shall have the definitions ascribed herein, unless the
1577 context otherwise requires:

1578 (a) "Native wine" shall mean any product, produced in
1579 Mississippi for sale, having an alcohol content not to exceed
1580 twenty-one percent (21%) by weight and made in accordance with
1581 revenue laws of the United States, which shall be obtained
1582 primarily from the alcoholic fermentation of the juice of ripe
1583 grapes, fruits, berries, honey or vegetables grown and produced in
1584 Mississippi; provided that bulk, concentrated or fortified wines
1585 used for blending may be produced without this state and used in
1586 producing native wines. The commission shall adopt and promulgate
1587 rules and regulations to permit a producer to import such bulk
1588 and/or fortified wines into this state for use in blending with
1589 native wines without payment of any excise tax that would
1590 otherwise accrue thereon. In order to be classified as "native
1591 wine" under the provisions of this chapter, at least fifty-one
1592 percent (51%) of the finished product by volume shall have been
1593 obtained from fermentation of grapes, fruits, berries, honey or
1594 vegetables grown and produced in Mississippi.

1595 (b) "Native winery" shall mean any place or
1596 establishment within this state where native wine is produced in
1597 whole or in part for sale.

1598 (c) "Produce" shall mean to do or to perform any act or
1599 thing in the process of making native wine.

1600 (d) "Person" shall mean one or more natural persons, or
1601 a corporation, partnership or association.

1602 (e) "Producer" shall mean any person who owns, operates
1603 or conducts a native winery, but it does not mean the employees of
1604 such persons.

1605 (f) "Consumer" shall mean any person who purchases
1606 native wine for the purpose of consuming it, giving it away, or
1607 distributing it in any way other than by sale, barter or exchange.

1608 (g) "Commission" shall mean the Mississippi State Tax
1609 Commission.

1610 * * *

1611 **SECTION 40.** Section 67-5-9, Mississippi Code of 1972, is
1612 amended as follows:

1613 67-5-9. (1) Every native winery in the State of Mississippi
1614 shall apply for a permit as provided for in Section 67-3-17, and
1615 shall be issued said initial and renewal permit by the commission
1616 upon meeting the qualifications and requirements presently set
1617 forth by law or regulation for permits authorized by law.

1618 (2) Every native winery shall register with the Secretary of
1619 State, shall show the location and permit number of said winery,
1620 shall show the name and address of the producer owning, conducting
1621 or operating the winery, shall show the name and address of all
1622 local agents and such other pertinent information which may be
1623 required by the Secretary of State, and shall appoint an agent for
1624 service of process within the State of Mississippi.

1625 **SECTION 41.** Section 67-5-11, Mississippi Code of 1972, is
1626 amended as follows:

1627 67-5-11. (1) Every native winery is authorized to make
1628 sales * * * directly to consumers, to beer, light wine or wine
1629 permittees * * *, and to any producer, manufacturer, wholesaler,
1630 retailer or consumer located outside the State of Mississippi.

1631 (2) Every person * * * who possesses a valid permit for the
1632 sale of beer, light wine or wine shall be entitled, without any
1633 additional permit or fee, to sell native wines and to purchase
1634 native wines directly from the producers thereof.

1635 **SECTION 42.** Section 67-5-13, Mississippi Code of 1972, is
1636 amended as follows:

1637 67-5-13. (1) Upon every producer holding a permit for the
1638 production of native wine, there is hereby levied and imposed for
1639 each location for the privilege of engaging and continuing in this
1640 state in the production of native wine an annual privilege license
1641 tax in an amount equal to Ten Dollars (\$10.00) for each ten
1642 thousand (10,000) gallons, or any part thereof, of native wine
1643 produced by the winery.

1644 (2) There is hereby levied and assessed an excise tax upon
1645 each case of native wine sold by a producer to any source to be
1646 collected from the producer in the amount provided for in Section
1647 27-71-307. However, native wine produced in Mississippi for
1648 export and sale without this state shall not be subject to said
1649 excise tax, nor shall such tax accrue or be collected on native
1650 wines dispensed, as free samples in quantities of not more than
1651 six (6) ounces, in the tasting room of a native winery.

1652 (3) The privilege tax imposed by subsection (1) of this
1653 section shall be collected in the same manner as presently
1654 provided by law for the collection of beer, light wine and wine
1655 taxes. The excise tax imposed by subsection (2) of this section
1656 shall be reported monthly by the producer to the commission on all
1657 sales made in Mississippi to the commission, retailers, consumers
1658 or any alcoholic beverage permittee of the commission, along with
1659 a statement of gallonage produced during that month, and the
1660 producer shall remit the tax due and owing with each report. The
1661 producer shall also include in the report a statement of gallonage
1662 sold and exported for sale outside this state.

1663 (4) All taxes levied by and collected under this section
1664 shall be deposited in the General Fund.

1665 **SECTION 43.** Section 27-71-5, Mississippi Code of 1972, is
1666 amended as follows:

1667 27-71-5. (1) Upon each person approved for a permit under
1668 the provisions of the Alcoholic Beverage Control Law and
1669 amendments thereto, there is levied and imposed for each location
1670 for the privilege of engaging and continuing in this state in the
1671 business authorized by such permit, an annual privilege license
1672 tax in the amount provided in the following schedule:

1673 (a) Manufacturer's permit, * * * distiller's and/or
1674 rectifier's..... \$4,500.00

1675 * * *

1676 (b) Package retailer's permit, each..... \$ 900.00

1677 (c) On-premises retailer's permit, except for clubs and
1678 common carriers, each..... \$ 450.00

1679 On purchases exceeding \$5,000.00 and for each
1680 additional \$5,000.00, or fraction thereof..... \$ 225.00

1681 * * *

1682 (d) On-premises retailer's permit for clubs.. \$ 225.00

1683 On purchases exceeding \$5,000.00 and for each
1684 additional \$5,000.00, or fraction thereof..... \$ 225.00

1685 (e) On-premises retailer's permit for common carriers,
1686 per car, plane, or other vehicle..... \$ 120.00

1687 (f) Solicitor's permit, regardless of any other
1688 provision of law, solicitor's permits shall be issued only in the
1689 discretion of the commission..... \$ 100.00

1690 (g) Filing fee for each application except for an
1691 employee identification card..... \$ 25.00

1692 (h) Temporary permit, Class 1, each..... \$ 10.00

1693 (i) Temporary permit, Class 2, each..... \$ 50.00

1694 On-premises purchases exceeding \$5,000.00 and for
1695 each additional \$5,000.00, or fraction thereof..... \$ 225.00

1696 (j) (i) Caterer's permit..... \$ 600.00

1697 On purchases exceeding \$5,000.00 and for each
1698 additional \$5,000.00, or fraction thereof..... \$ 250.00

1699 (ii) Caterer's permit for holders of on-premises
1700 retailer's permit..... \$ 150.00
1701 On purchases exceeding \$5,000.00 and for each
1702 additional \$5,000.00, or fraction thereof..... \$ 250.00
1703 (k) Research permit..... \$ 100.00
1704 (1) Filing fee for each application for an employee
1705 identification card..... \$ 5.00

1706 In addition to the filing fee imposed by item (k) of this
1707 subsection, a fee to be determined by the State Tax Commission may
1708 be charged to defray costs incurred to process applications. Such
1709 additional fees shall be paid into the State Treasury to the
1710 credit of a special fund account, which is hereby created, and
1711 expenditures therefrom shall be made only to defray the costs
1712 incurred by the State Tax Commission in processing alcoholic
1713 beverage applications. Any unencumbered balance remaining in the
1714 special fund account on June 30 of any fiscal year shall lapse
1715 into the State General Fund.

1716 All privilege taxes herein imposed shall be paid in advance
1717 of doing business. The additional privilege tax imposed for an
1718 on-premises retailer's permit based upon purchases shall be due
1719 and payable on demand.

1720 Any person who has paid the additional privilege license tax
1721 imposed by item (c), * * * (d), (i) or (j) of this subsection, and
1722 whose permit is renewed, may add any unused fraction of Five
1723 Thousand Dollars (\$5,000.00) purchases to the first Five Thousand
1724 Dollars (\$5,000.00) purchases authorized by the renewal permit,
1725 and no additional license tax will be required until purchases
1726 exceed the sum of the two (2) figures.

1727 (2) There is imposed and shall be collected from each
1728 permittee, except a common carrier, solicitor, holder of an
1729 employee identification card or a temporary permittee, by the
1730 commission, an additional license tax equal to the amounts imposed
1731 under subsection (1) of this section for the privilege of doing

1732 business within any municipality or county in which the licensee
1733 is located. If the licensee is located within a municipality, the
1734 commission shall pay the amount of additional license tax to the
1735 municipality, and if outside a municipality the commission shall
1736 pay the additional license tax to the county in which the licensee
1737 is located. Payments by the commission to the respective local
1738 government subdivisions shall be made once each month for any
1739 collections during the preceding month.

1740 (3) When an application for any permit, other than for
1741 renewal of a permit, has been rejected by the commission, such
1742 decision shall be final. Appeal may be made in the manner
1743 provided by Section 67-1-39. Another application from an
1744 applicant who has been denied a permit shall not be reconsidered
1745 within a twelve-month period.

1746 (4) The number of permits issued by the commission shall not
1747 be restricted or limited on a population basis; however, the
1748 foregoing limitation shall not be construed to preclude the right
1749 of the commission to refuse to issue a permit because of the
1750 undesirability of the proposed location.

1751 (5) If any person shall engage or continue in any business
1752 which is taxable under this section without having paid the tax as
1753 provided herein, such person shall be liable for the full amount
1754 of such tax plus a penalty thereon equal to the amount thereof,
1755 and, in addition, shall be punished by a fine of not more than One
1756 Thousand Dollars (\$1,000.00), or by imprisonment in the county
1757 jail for a term of not more than six (6) months, or by both such
1758 fine and imprisonment, in the discretion of the court.

1759 (6) It shall be unlawful for any person to consume alcoholic
1760 beverages on the premises of any hotel restaurant, restaurant,
1761 club or the interior of any public place defined in Chapter 1,
1762 Title 67, Mississippi Code of 1972, when the owner or manager
1763 thereof displays in several conspicuous places inside said

1764 establishment and at the entrances thereto a sign containing the
1765 following language: NO ALCOHOLIC BEVERAGES ALLOWED.

1766 **SECTION 44.** Section 27-71-7, Mississippi Code of 1972, is
1767 amended as follows:

1768 27-71-7. (1) There is hereby levied and assessed an excise
1769 tax upon each case of alcoholic beverages sold by the commission
1770 to be collected from each retail licensee at the time of sale in
1771 the amount of Two Dollars and Fifty Cents (\$2.50) per gallon.

1772 * * *

1773 (2) (a) In addition to the tax levied by subsection (1) of
1774 this section, and in addition to any other markup collected, the
1775 Alcoholic Beverage Control Division shall collect a markup of
1776 three percent (3%) on all alcoholic beverages, as defined in
1777 Section 67-1-5, Mississippi Code of 1972, which are sold by the
1778 division. The proceeds of the markup shall be collected by the
1779 division from each purchaser at the time of purchase.

1780 (b) Until June 30, 1987, the revenue derived from this
1781 three percent (3%) markup shall be deposited by the division in
1782 the State Treasury to the credit of the "Alcoholism Treatment and
1783 Rehabilitation Fund," a special fund which is hereby created in
1784 the State Treasury, and shall be used by the Division of Alcohol
1785 and Drug Abuse of the State Department of Mental Health and public
1786 or private centers or organizations solely for funding of
1787 treatment and rehabilitation programs for alcoholics and alcohol
1788 abusers which are sponsored by the division or public or private
1789 centers or organizations in such amounts as the Legislature may
1790 appropriate to the division for use by the division or public or
1791 private centers or organizations for such programs. Any tax
1792 revenue in the fund which is not encumbered at the end of the
1793 fiscal year shall lapse to the General Fund. It is the intent of
1794 the Legislature that the State Department of Mental Health shall
1795 continue to seek funds from other sources and shall use the funds
1796 appropriated for the purposes of this section and Section 27-71-29

1797 to match all federal funds which may be available for alcoholism
1798 treatment and rehabilitation.

1799 From and after July 1, 1987, the revenue derived from this
1800 three percent (3%) markup shall be deposited by the division in
1801 the State Treasury to the credit of the "Mental Health Programs
1802 Fund," a special fund which is hereby created in the State
1803 Treasury and shall be used by the State Department of Mental
1804 Health for the service programs of the department. Any revenue in
1805 the "Alcoholism Treatment and Rehabilitation Fund" which is not
1806 encumbered at the end of Fiscal Year 1987 shall be deposited to
1807 the credit of the "Mental Health Programs Fund."

1808 **SECTION 45.** Section 27-71-21, Mississippi Code of 1972, is
1809 amended as follows:

1810 27-71-21. Before any person shall engage in the business of
1811 manufacturing or retailing of alcoholic beverages, he may be
1812 required to enter into a bond payable to the State of Mississippi,
1813 conditioned that he will conduct said business strictly in
1814 accordance with the laws of the State of Mississippi, and that he
1815 will comply with the rules and regulations prescribed by the
1816 commission, and pay all taxes due the State of Mississippi. The
1817 amount of a bond required of a manufacturer * * * shall not exceed
1818 One Hundred Thousand Dollars (\$100,000.00), and the amount
1819 required of a retailer shall be Five Thousand Dollars (\$5,000.00).
1820 Provided, however, any retailer whose check for purchase of
1821 merchandise or payment of taxes shall be dishonored may be
1822 required by the commission to post additional bond not to exceed
1823 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
1824 surety company authorized to do business in the State of
1825 Mississippi and shall be approved by the commission. The
1826 commission shall be authorized to institute suit in the proper
1827 court for any violation of the condition of said bonds. * * *

1828 As an alternative to entering into a bond as required by this
1829 section, any person who shall engage in the business of

1830 manufacturing or retailing alcoholic beverages may, subject to the
1831 same conditions of conduct required for bonds, deposit with the
1832 State Treasurer the equivalent amount of the bond required for
1833 that particular person in cash or securities. The only securities
1834 allowable for this purpose are those which may legally be
1835 purchased by a bank or for trust funds, having a market value not
1836 less than that of the required bond. The commission shall file
1837 notice with the State Treasurer for any violation of the
1838 conditions of the cash or security deposit.

1839 **SECTION 46.** Section 27-71-301, Mississippi Code of 1972, is
1840 amended as follows:

1841 27-71-301. When used in this article, the words and terms
1842 hereafter mentioned shall have the following definitions:

1843 (a) "State Auditor" means the State Auditor of Public
1844 Accounts of the State of Mississippi or any legally appointed
1845 deputy, clerk or agent.

1846 (b) "Person" includes all natural persons or
1847 corporations, a partnership, an association, a joint venture, an
1848 estate, a trust, or any other group or combination acting as a
1849 unit and shall include the plural as well as the singular unless
1850 an intention to give another meaning thereto is disclosed in the
1851 context.

1852 (c) "Consumer" means a person who comes into the
1853 possession of beer, light wine or wine * * * for the purpose of
1854 consuming it, giving it away or otherwise disposing of it in any
1855 manner except by sale, barter or exchange.

1856 (d) "Retailer" means any person who comes into the
1857 possession of * * * beer, light wine or wine, for the purpose of
1858 selling it to the consumer, or giving it away, or exposing it
1859 where it may be taken or purchased or acquired in any other manner
1860 by the consumer.

1861 (e) "Wholesaler" means any person who comes into
1862 possession of * * * beer, light wine or wine for the purpose of

1863 selling, distributing, or giving it away to retailers or other
1864 wholesalers or dealers inside or outside of this state.

1865 (f) "Commissioner" means the Chairman of the State Tax
1866 Commission or his duly appointed agents or employees.

1867 (g) "Sale" includes the exchange of * * * light * * *
1868 beer, light wine or wine for money, or giving away or distributing
1869 any such light wines or beer for anything of value.

1870 (h) " * * * Beer, light wine or wine" means beer, light
1871 wines and wine legalized for sale by the provisions of Chapter 3
1872 of Title 67, Mississippi Code of 1972.

1873 (i) "Distributor" includes every person who receives
1874 either from within or from without this state, from a brewery, a
1875 winery or any other source, * * * beer, light wine or wine, as
1876 defined in Chapter 3 of Title 67, Mississippi Code of 1972, for
1877 the purpose of distributing or otherwise disposing of such * * *
1878 beer, light wine or wine to a wholesaler or retailer of such light
1879 wines or beer.

1880 (j) "Brewpub" means the premises of any restaurant, as
1881 defined in Section 67-1-5, Mississippi Code of 1972, in which
1882 light wine or beer is manufactured or brewed, subject to the
1883 production limitation imposed in Section 67-3-22, for consumption
1884 exclusively on the premises. "Premises," for the purpose of this
1885 paragraph (j) for a brewpub operated by a hospitality operator,
1886 shall mean only those areas immediately adjacent and connected to
1887 the brewing facility where food is normally sold and consumed.
1888 "Premises," for the purposes of this paragraph (j) for a brewpub
1889 not operated by a hospitality operator, shall mean those areas
1890 normally used by the brewpub to conduct business and shall include
1891 the selling areas, brewing areas and storage areas. For purposes
1892 of this paragraph (j), hospitality operator shall have the meaning
1893 ascribed to such term in Section 67-33-22.

1894 **SECTION 47.** Section 27-71-303, Mississippi Code of 1972, is
1895 amended as follows:

1896 27-71-303. Upon each person approved for a permit to engage
1897 in the business of selling light wines or beer there is hereby
1898 imposed, levied and assessed, to be collected and paid as herein
1899 provided, annual privilege taxes in the following amounts:

- 1900 (a) Retailers--for each place of
1901 business..... \$ 30.00
1902 (b) Wholesalers or distributors--for each
1903 county..... \$ 100.00
1904 (c) Manufacturers, other than native wine
1905 manufacturers, for each place of
1906 business..... \$1,000.00
1907 (d) Brewpubs--for each place of
1908 business..... \$1,000.00
1909 (e) Native wine manufacturers per 10,000 gallons or
1910 part thereof produced..... \$ 10.00

1911 Upon each person operating an airline, bus, boat or railroad
1912 car upon which light wines or beer may be sold there is hereby
1913 imposed, levied and assessed, to be collected and paid, annual
1914 privilege taxes of Thirty Dollars (\$30.00) for each airplane, bus,
1915 boat or railroad car so operated in this state.

1916 Provided, however, the amount of the privilege tax to be paid
1917 for a permit issued for a period of less than twelve (12) months
1918 shall be that proportionate amount of the annual privilege tax
1919 that the number of months, or part of a month, remaining until its
1920 expiration date bears to twelve (12) months, but in no case shall
1921 the privilege tax be less than Ten Dollars (\$10.00).

1922 **SECTION 48.** Section 27-71-307, Mississippi Code of 1972, is
1923 amended as follows:

1924 27-71-307. (1) (a) In addition to the specific tax imposed in
1925 each person engaged or continuing in the business of wholesaler or
1926 distributor of * * * beer, light wine or wine equivalent to
1927 Forty-two and Sixty-eight One-hundredths Cents (42.68¢) per gallon
1928 upon all light wines and beer acquired for sale or distribution in

1929 this state, One Dollar (\$1.00) per gallon on sparkling wine and
1930 champagne and Thirty-five Cents (35¢) per gallon upon all other
1931 wines, including native wines. Such excise or privilege tax is
1932 also imposed at the same rate upon each gallon of light wine or
1933 beer manufactured by brewpubs, each of which shall accurately and
1934 reliably measure the quantity of light wine and beer produced by
1935 using a measuring device such as a meter or gauge glass or any
1936 other suitable method approved by the commissioner. Such tax is
1937 hereby imposed as an additional tax for the privilege of engaging
1938 or continuing in business.

1939 (b) The excise tax imposed in this section shall be
1940 paid to the State Tax Commission monthly on or before the
1941 fifteenth day of the month following the month in which the beer,
1942 light wine or wine was manufactured or received in this state.
1943 Monthly report forms shall be furnished by the commissioner to the
1944 wholesalers, distributors and brewpubs.

1945 (c) Provided that persons operating a railroad dining
1946 car, club car or other car in interstate commerce upon which light
1947 wines or beer may be sold and who are licensed under the
1948 provisions of Section 67-3-27 and any other law relating to the
1949 sale of such beverages shall keep such records of the sales of
1950 such * * * beer, light wines and wines in this state as the
1951 commissioner shall prescribe and shall submit monthly reports of
1952 such sales to the commissioner within fifteen (15) days after the
1953 end of each month on a form prescribed therefor by the
1954 commissioner, and shall pay the tax due under the provisions of
1955 this section at the time such reports are filed.

1956 No official crowns, lids, labels or stamps with the word
1957 "MISSISSIPPI" or "MS" imprinted thereon or any other evidence of
1958 tax payment is required by this section, or may be required under
1959 rule or regulation promulgated by the commissioner, to be affixed
1960 on or to any part of a beer, light wine, wine or malt cooler
1961 bottle, can or other light wine, wine or malt cooler container.

1962 For purposes of this section, malt cooler products shall be
1963 defined as a flavored malt beverage made from a base of malt
1964 beverage and flavored with fruit juices, aromatics and essences of
1965 other flavoring in quantities and proportions such that the
1966 resulting product possesses a character and flavor distinctive
1967 from the base malt beverage and distinguishable from other malt
1968 beverages.

1969 (2) A licensed wholesaler or distributor of beer, light wine
1970 or wine may not import beer, light wine or wine from any source
1971 other than a brewer or importer authorized by the commissioner to
1972 sell such beer, light wine or wine in Mississippi. Any person who
1973 violates the provisions of this subsection, upon conviction
1974 thereof, shall be punished by a fine of not more than One Thousand
1975 Dollars (\$1,000.00) or by imprisonment in the county jail for not
1976 more than six (6) months, or by both such fine and imprisonment,
1977 in the discretion of the court and shall be subject to license
1978 forfeiture following an appropriate hearing before the State Tax
1979 Commission.

1980 (3) The wholesaler or distributor shall be allowed credit
1981 for tax paid on beer, light wine or wine which is no longer
1982 marketable and which is destroyed by same when such destruction is
1983 witnessed by an agent of the commissioner and when the amount of
1984 the excise tax exceeds One Hundred Dollars (\$100.00). No other
1985 loss will be allowed.

1986 A brewpub shall be allowed credit for light wine or beer
1987 which has passed through the meter, gauge glass or other approved
1988 measuring device and which has been soured or damaged. The
1989 brewpub shall record the removal of sour or damaged light wine or
1990 beer and may take credit after the destruction is witnessed by an
1991 agent of the commissioner and when the amount of excise tax
1992 exceeds Twenty-five Dollars (\$25.00). No other loss shall be
1993 allowed.

1994 (4) All manufacturers, brewers and importers of beer, light
1995 wine or wine shall file monthly reports as prescribed by the
1996 commissioner listing sales to each wholesaler or distributor by
1997 date, invoice number, quantity and container size, and any other
1998 information deemed necessary.

1999 (5) All administrative provisions of the Mississippi Sales
2000 Tax Law, including those which fix damages, penalties and interest
2001 for nonpayment of taxes and for noncompliance with the provisions
2002 of such chapter, and all other requirements and duties imposed
2003 upon taxpayers, shall apply to all persons liable for taxes under
2004 the provisions of this chapter, and the commissioner shall
2005 exercise all the power and authority and perform all the duties
2006 with respect to taxpayers under this chapter as are provided in
2007 the sales tax law except where there is conflict, then the
2008 provisions of this chapter shall control.

2009 **SECTION 49.** Section 27-71-311, Mississippi Code of 1972, is
2010 amended as follows:

2011 27-71-311. Before any person shall engage in the business of
2012 manufacturing * * * beer, light wines, wines or native wines, in
2013 the business of wholesaler or distributor of * * * beer, light
2014 wines or wines, or in the business of a brewpub, he shall be
2015 required to enter into a good and sufficient bond. The bond shall
2016 be made payable to the State of Mississippi, in a sum of not less
2017 than Five Thousand Dollars (\$5,000.00) nor more than Two Hundred
2018 Thousand Dollars (\$200,000.00), the amount to be determined by the
2019 commission. The bond of a wholesaler, distributor or brewpub
2020 shall not exceed the amount of excise tax estimated to be owed by
2021 such wholesaler, distributor or brewpub for any sixty-day period.
2022 The bond shall be conditioned that he will conduct his business
2023 strictly in accordance with the laws of the State of Mississippi,
2024 and that he will comply with the rules and regulations prescribed
2025 by the commissioner, and pay the taxes imposed under the
2026 provisions of this article for the privilege of engaging or

2027 continuing in such business. Such bond shall be made in a surety
2028 company authorized to do business in the State of Mississippi, and
2029 shall be approved by the commissioner. The commissioner shall be
2030 authorized to institute suit in the proper court on said bond for
2031 any violation of the conditions of said bond.

2032 **SECTION 50.** Section 27-71-315, Mississippi Code of 1972, is
2033 amended as follows:

2034 27-71-315. Except as otherwise provided in Section 67-9-1
2035 for the transportation of limited amounts of alcoholic beverages
2036 for the use of an alcohol processing permittee, it shall be
2037 unlawful for any person to transport from any point outside of
2038 this state to any point within this state, any * * * beer, light
2039 wines or wines except for delivery to a licensed wholesaler or
2040 distributor in this state; and except by common carrier. The
2041 commissioner may, however, upon application of a licensed
2042 wholesaler or distributor in this state, and under rules and
2043 regulations duly promulgated by him, issue a permit for the
2044 transportation by a licensed wholesaler or distributor of * * *
2045 beer, light wines or wines in trucks owned by such licensee, from
2046 without the state to the place of business of such licensee within
2047 the state, for distribution by said licensee. Such permit shall
2048 be granted for a specified period, not to exceed one (1) year.

2049 Any person engaged in transporting any * * * beer, light
2050 wines or wines from any point outside of this state to any point
2051 within this state, shall have in his possession during the entire
2052 time he is engaged in transporting such * * * beer, light wines or
2053 wines, an invoice, bill of sale, or bill of lading, showing the
2054 true name and address of the consignor, and also the true name and
2055 address of the licensed wholesaler or distributor to whom
2056 such * * * beer, light wines or wines is to be delivered, and the
2057 quantity of such * * * beer, light wines or wines unless such
2058 common carrier maintains a permanent office within this state
2059 where complete records of all * * * beer, light wines or wines

2060 transported from without this state to points within this state
2061 are kept, and open to inspection by the commissioner or his duly
2062 authorized agent, at all reasonable times.

2063 It is hereby made the duty of all common carriers, and
2064 licensed wholesalers and distributors, transporting * * * beer,
2065 light wines or wines from without the State of Mississippi into
2066 the State of Mississippi, to furnish the commissioner on or before
2067 the fifteenth day of each month, a report showing the amount of
2068 beer transported within the state during the preceding month, the
2069 consignor, the consignee, and the quantity of * * * beer, light
2070 wines or wines so transported.

2071 **SECTION 51.** Section 27-71-317, Mississippi Code of 1972, is
2072 amended as follows:

2073 27-71-317. It shall be unlawful for any person to transport
2074 from any point within this state to another point within this
2075 state, any * * * beer, light wines or wines, on which the tax
2076 imposed in Section 27-71-307 of this article has not been paid,
2077 except for immediate delivery to a licensed wholesaler or
2078 distributor in this state. * * * Any person engaged in
2079 transporting any * * * beer, light wines or wines, on which the
2080 tax imposed in Section 27-71-307 of this article has not been
2081 paid, from any point within this state to another point within
2082 this state, shall have in his possession during the entire time he
2083 is engaged in transporting such * * * beer, light wines or wines,
2084 an invoice, bill of sale, or bill of lading showing the true name
2085 and address of the consignor, and also the true name and address
2086 of the licensed wholesaler or distributor to whom such * * * beer,
2087 light wines or wines is to be delivered and the quantity of
2088 such * * * beer, light wines or wines.

2089 **SECTION 52.** Section 27-71-325, Mississippi Code of 1972, is
2090 amended as follows:

2091 27-71-325. It shall be the duty of every wholesaler or
2092 distributor of * * * beer, light wines or wines licensed under the

2093 provisions of Section 67-3-27, Mississippi Code of 1972, to file
2094 with the commissioner, on or before the fifteenth day of each
2095 month, a report covering all sales of such * * * beer, light wines
2096 or wines during the preceding month. Such report shall show the
2097 names and post-office addresses of all persons to whom such light
2098 wines or beer have been sold or delivered and the quantities and
2099 invoice prices of the * * * beer, light wines or wines thus sold
2100 or delivered.

2101 It shall be the duty of each retail dealer in such * * *
2102 beer, light wines or wines to procure from the distributor or
2103 wholesaler from whom such * * * beer, light wines or wines were
2104 purchased or acquired, invoices showing the quantity of the * * *
2105 beer, light wines or wines purchased or acquired, and the date of
2106 each delivery thereof. Such invoices shall be preserved by the
2107 retailer and shall be open for inspection by the commissioner or
2108 his duly authorized agent for a period of two (2) years. It shall
2109 likewise be the duty of such retail dealer to file with the
2110 commissioner, on or before the fifteenth day of each calendar
2111 month, a report showing all purchases of such * * * beer, light
2112 wines or wines made by him during the preceding month. Such
2113 report shall disclose the names and addresses of all persons from
2114 whom such * * * beer, light wines or wines have been purchased or
2115 received by him during the preceding month and the quantities thus
2116 purchased or received.

2117 **SECTION 53.** Section 27-71-327, Mississippi Code of 1972, is
2118 amended as follows:

2119 27-71-327. Any person engaged in the business of
2120 manufacturer, distributor, wholesaler or retailer of * * * beer,
2121 light wines or wines and any brewpub shall keep such additional
2122 records and make such additional reports with respect to the
2123 manufacture, receipt, distribution and sale of such * * * beer,
2124 light wines or wines as the commissioner may require. It shall be
2125 the duty of the commissioner to prescribe and promulgate uniform

2126 rules and regulations for keeping such records and making such
2127 reports.

2128 **SECTION 54.** Section 27-71-333, Mississippi Code of 1972, is
2129 amended as follows:

2130 27-71-333. Whenever it shall be determined by the
2131 commissioner that any wholesaler or distributor having in his
2132 possession, or engaging in the sale or distribution of * * * beer,
2133 light wines or wines, has failed to pay the tax, as provided
2134 herein, the commissioner shall compute the correct amount of tax
2135 due and unpaid and shall notify the taxpayer of the amount as
2136 being actually due and unpaid, and penalties, and interest and
2137 shall state in what manner this article is violated. The taxpayer
2138 so notified shall be given a period of ten (10) days in which to
2139 make objection and show cause why the additional tax, and
2140 penalties, and interest, should not be paid. On petition of the
2141 taxpayer, a hearing before the commissioner shall be granted, a
2142 final decision thereon shall be rendered, and the taxpayer
2143 notified as early as practicable. Any tax or deficiency in tax
2144 shall be assessed and paid, together with penalties and interest,
2145 if any, applicable thereto, within ten (10) days after notice and
2146 demand by the commissioner.

2147 If no objection be made to the finding of the commissioner,
2148 and no hearing be had before the commissioner within the time
2149 herein specified, the findings of the commissioner shall be final.
2150 If a hearing be had, and the amount of tax due and unpaid be
2151 determined, notice of the amount of such tax, penalties and
2152 interest shall be mailed to the taxpayer, and, if not paid within
2153 ten (10) days thereafter, the commissioner shall forthwith issue a
2154 warrant under official seal directed to the sheriff of any county
2155 of the state commanding him to levy upon and sell the real and
2156 personal property of the person owing the tax, found within his
2157 county, for the payment of the amount thereof, with added damages,
2158 interest and cost of executing the warrant, and to return such

2159 warrant to the commissioner and pay to him money collected by
2160 virtue thereof by a time to be therein specified not more than
2161 sixty (60) days from the date of the warrant. The sheriff shall,
2162 within five (5) days after the receipt of the warrant, file with
2163 the circuit clerk of his county a copy thereof, and thereupon the
2164 circuit clerk shall enter in the judgment roll, in the column for
2165 judgment debtors, the name of the taxpayer mentioned in the
2166 warrant, and in appropriate columns, the amount of the tax, or
2167 portion thereof and damages for which the warrant is issued, and
2168 the date when such copy is filed; and thereupon the amount of such
2169 warrant or warrants so docketed shall become a lien upon the title
2170 to and interest in the real and personal property, including
2171 choses in action, of the person against whom it is issued in the
2172 same manner as a judgment duly enrolled in the office of such
2173 clerk. The sheriff thereupon shall proceed upon the same in all
2174 respects, with like effect, and in the same manner prescribed by
2175 law in respect to executions issued against property upon judgment
2176 or attachment proceedings of a court of record; and he shall be
2177 entitled to the same fee for his service in executing the warrant
2178 as now allowed by law for like service, to be collected in the
2179 same manner as provided by law for like service.

2180 **SECTION 55.** Section 27-71-335, Mississippi Code of 1972, is
2181 amended as follows:

2182 27-71-335. Any beer found at any point within this state
2183 which has been in the possession of any wholesaler or distributor
2184 for a period of more than forty-eight (48) hours and any * * *
2185 beer, light wines or wines transported into this state from a
2186 point outside this state, or from point to point within this state
2187 in violation of the provisions of this article, or any * * * beer,
2188 light wines or wines held or possessed by any person within this
2189 state on which the legal and proper tax has not been paid when
2190 due, whether such person be a wholesaler, retailer or distributor,
2191 or individual, and whether such beer be for sale or storage or

2192 individual use, except beer in possession of a licensed wholesaler
2193 or distributor for a period of time less than forty-eight (48)
2194 hours after receipt of same within this state, and light wines or
2195 beer held in storage by licensed manufacturers or producers, are
2196 hereby declared to be contraband goods, and there is hereby
2197 imposed and assessed, as tax and penalty, to be collected by the
2198 commissioner, an amount equal to the amount of the excise tax
2199 otherwise imposed under the Mississippi Wine and Beer Tax Law,
2200 plus a penalty of one hundred percent (100%) of the amount of such
2201 tax; or, at the option of the commissioner, the same may be seized
2202 by the commissioner or his agents or any sheriff, or other lawful
2203 officer, and shall be dealt with in the following manner, to wit:

2204 Such officer seizing said light wines or beer shall
2205 immediately make complaint under oath before the proper justice
2206 court judge, stating the facts connected with said seizure by him,
2207 giving the name or names of the person or persons found in
2208 possession or control of such * * * beer, light wines or wines,
2209 and giving the name of the owner of such * * * beer, light wines
2210 or wines, if the same be known to him, whereupon the said justice
2211 court judge shall summon into his court all interested parties,
2212 and may issue a writ of seizure, if said property or any part of
2213 it is not in the possession of the officer seizing same, for the
2214 seizure of * * * the beer, light wines or wines and the summoning
2215 of the interested parties into court, as in proceedings for the
2216 enforcement of purchase money security interests in the property.
2217 If any person claims that the * * * beer, light wines or wines
2218 were unlawfully seized or that the tax thereon had been paid prior
2219 to such seizure, he may file his claim therefor under oath,
2220 stating in detail why * * * the beer, light wines or wines or any
2221 of it so seized should not be confiscated, and said affidavit
2222 shall state the market value of the property so claimed by him,
2223 which amount as so fixed shall determine the jurisdiction of the
2224 court as to the amount involved or the value of the property.

2225 If the affidavit fixes the value of the property at Two
2226 Hundred Dollars (\$200.00) or less, the said justice court judge
2227 shall finally dispose of the issue in the case joined under his
2228 direction, but if the affidavit fixes the value of the property at
2229 more than Two Hundred Dollars (\$200.00), the justice court judge
2230 before whom the case is returnable shall forthwith present said
2231 case to the circuit court of the county or county court having
2232 jurisdiction to try the case, where the issue shall, under the
2233 direction of the circuit court, or county court, be joined between
2234 the State of Mississippi and the said claimant, and the case there
2235 tried as in other cases. If no claim be interposed by any party
2236 in interest on or before the return day of the summons and writ of
2237 seizure, the justice court judge on the return day shall hear the
2238 cause, and dispose of the property, and may order such * * * beer,
2239 light wines or wines to be destroyed. In the event the property
2240 is claimed by any party in interest and issue joined in any court
2241 having jurisdiction of the case, such court trying the case shall
2242 have the rights of the state and the claimant determined in a
2243 trial according to the rules of procedure for such court, and if
2244 it be determined that any property involved in said trial was kept
2245 or possessed in violation of any provisions of this article or
2246 that any tax due thereon had not been paid prior to the seizure of
2247 such property, it shall be ordered destroyed. Any person so
2248 owning or possessing such light wines or beer shall be guilty of
2249 misdemeanor and, upon conviction thereof, shall be fined not more
2250 than One Thousand Dollars (\$1,000.00), or be sentenced to serve a
2251 period in the county jail of not more than six (6) months, or both
2252 in the discretion of the court. However, in all such trials and
2253 proceedings as provided for in this section the claimant may,
2254 before he shall file his claim, be required to execute a solvent
2255 bond in sufficient amount to cover all costs that may likely
2256 accrue, conditioned that he will pay all costs of the case that
2257 may be adjudged against him, and in the event the claimant fails

2258 to establish his claim or any part of it to said property, it may
2259 be taxed for all, or any part of the costs of the case, and
2260 judgment shall go against his sureties for all costs adjudged
2261 against him.

2262 **SECTION 56.** Section 27-71-345, Mississippi Code of 1972, is
2263 amended as follows:

2264 27-71-345. Any municipality, in which any business licensed
2265 under the provisions of Section 67-3-27, Mississippi Code of 1972,
2266 may be carried on, shall have the right to impose upon persons
2267 engaged in such business an annual privilege tax of not more than
2268 fifty percent (50%) of the tax imposed by Section 27-71-303 of
2269 this article, and any county, in which any business licensed under
2270 the provisions of Section 67-3-27, Mississippi Code of 1972, may
2271 be carried on outside of the territory taxed by municipalities,
2272 shall have the right to impose upon persons engaged in such
2273 business an annual privilege tax of not more than fifty percent
2274 (50%) of the tax imposed by Section 27-71-303 of this
2275 article; * * * however, * * * no person engaged in the business of
2276 manufacturer, brewpub, wholesaler or distributor of * * * beer,
2277 light wines or wines shall be taxed by any municipality other than
2278 that in which the warehouse or plant of such wholesaler or
2279 distributor, or the premises of such brewpub, is located, nor
2280 shall any county impose any such tax upon such manufacturer,
2281 brewpub, wholesaler or distributor of * * * beer, light wines or
2282 wines if the place of business is located within the jurisdiction
2283 of any municipality.

2284 **SECTION 57.** This act shall take effect and be in force from
2285 and after July 1, 2004.