

By: Senator(s) Doxey, Brown, Gollott, Hewes, Lee (47th), Albritton, Dawkins, Michel, Chaney To: Finance

## SENATE BILL NO. 2722

1 AN ACT TO REQUIRE THE STATE TAX COMMISSION TO ENTER INTO  
 2 CONTRACTS WITH PRIVATE ENTITIES FOR FRANCHISE OF, AND THE  
 3 FRANCHISING OF ALL RIGHTS ASSOCIATED WITH, THE WHOLESALE  
 4 DISTRIBUTION OF ALCOHOLIC BEVERAGES IN THIS STATE; TO REQUIRE THE  
 5 STATE TAX COMMISSION TO ESTABLISH NOT LESS THAN EIGHT SERVICE  
 6 TERRITORIES IN THE STATE IN WHICH PRIVATE SECTOR ENTITIES HAVE THE  
 7 RIGHT TO THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES; TO  
 8 PROVIDE THAT WITHIN EACH SERVICE TERRITORY THE STATE TAX  
 9 COMMISSION SHALL AWARD NOT LESS THAN TWO NOR MORE THAN FOUR  
 10 FRANCHISES FOR THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES  
 11 IN THE SERVICE TERRITORY; TO PROVIDE THAT ONLY PRIVATE ENTITIES  
 12 THAT ARE AWARDED FRANCHISES IN A SERVICE TERRITORY MAY DISTRIBUTE  
 13 ALCOHOLIC BEVERAGES AT WHOLESALE IN THE SERVICE TERRITORY; TO  
 14 PROVIDE THAT ANY CONTRACT ENTERED INTO WITH A PRIVATE ENTITY FOR  
 15 THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES SHALL PROVIDE  
 16 FOR A NEGOTIATED ANNUAL ROYALTY PAYMENT IN AN AMOUNT OF NOT LESS  
 17 THAN 10% OF THE GROSS WHOLESALE SALES OF ALCOHOLIC BEVERAGES BY  
 18 THE OWNER OF THE FRANCHISE AND SHALL PROVIDE PENALTIES FOR FAILURE  
 19 TO MAKE ANY REQUIRED PAYMENTS TO THE STATE TAX COMMISSION OR THE  
 20 STATE OR FOR OTHERWISE VIOLATING THE TERMS OF THE CONTRACT; TO  
 21 PROVIDE THAT THE OWNER OF A FRANCHISE MAY SELL THE FRANCHISE TO  
 22 ANOTHER PRIVATE ENTITY ONLY UPON APPROVAL OF THE SALE BY THE STATE  
 23 TAX COMMISSION; TO PROVIDE THAT AMOUNTS PAID BY A PRIVATE ENTITY  
 24 FOR THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES AND ANNUAL  
 25 ROYALTY PAYMENTS SHALL BE DEPOSITED INTO THE STATE GENERAL FUND;  
 26 TO MAKE IT UNLAWFUL FOR A MANUFACTURER OF ALCOHOLIC BEVERAGES, OR  
 27 ANYONE CONNECTED WITH THE BUSINESS OF A MANUFACTURER OF ALCOHOLIC  
 28 BEVERAGES, TO HAVE ANY FINANCIAL INTEREST IN A FRANCHISE AWARDED  
 29 UNDER THIS ACT, OR IN THE BUSINESS CONDUCTED BY THE HOLDER OF SUCH  
 30 A FRANCHISE; TO MAKE IT UNLAWFUL FOR A MANUFACTURER OF ALCOHOLIC  
 31 BEVERAGES, OR ANYONE CONNECTED WITH A MANUFACTURER'S BUSINESS TO  
 32 LEND ANY MONEY OR MAKE ANY GIFT OR OFFER ANY GRATUITY TO THE  
 33 HOLDER OF A FRANCHISE AWARDED UNDER THIS ACT OR TO AN EMPLOYEE OF  
 34 THE HOLDER OF SUCH A FRANCHISE, EXCEPT AS AUTHORIZED BY  
 35 REGULATIONS OF THE COMMISSION; TO AUTHORIZE THE DEPARTMENT OF  
 36 FINANCE AND ADMINISTRATION, ACTING ON BEHALF OF THE STATE TAX  
 37 COMMISSION, TO SELL ALL REAL PROPERTY OWNED BY THE STATE AND  
 38 UTILIZED BY THE STATE TAX COMMISSION IN CONNECTION WITH THE  
 39 WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES BY THE COMMISSION;  
 40 TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-9, 27-71-15, 27-71-21,  
 41 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-43, 67-1-45, 67-1-51,  
 42 67-1-77 AND 67-1-79, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
 43 DISTRIBUTION OF ALCOHOLIC BEVERAGES BY PRIVATE ENTITIES; TO  
 44 PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR A WHOLESALE ALCOHOLIC  
 45 BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE FOR AN EXCISE TAX ON  
 46 ALCOHOLIC BEVERAGES SOLD BY THE HOLDER OF A WHOLESALE ALCOHOLIC  
 47 BEVERAGE DISTRIBUTION PERMIT AND THE COLLECTION OF SUCH TAX; TO  
 48 REQUIRE THE OPERATOR OF A VEHICLE TRANSPORTING ALCOHOLIC BEVERAGES  
 49 TO POSSESS AN INVOICE ISSUED BY THE HOLDER OF A WHOLESALE  
 50 ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE THAT PERSONS  
 51 ENGAGED IN THE BUSINESS OF DISTRIBUTING ALCOHOLIC BEVERAGES AT  
 52 WHOLESALE MAY BE REQUIRED TO ENTER INTO A BOND PAYABLE TO THE

53 STATE OF MISSISSIPPI CONDITIONED THAT SUCH DISTRIBUTOR WILL  
54 CONDUCT HIS BUSINESS LAWFULLY; TO AUTHORIZE THE STATE TAX  
55 COMMISSION TO PROMULGATE RULES AND REGULATIONS GOVERNING THE  
56 PURCHASE FOR THE WHOLESALE RESALE, DISTRIBUTION AND SALE OF  
57 ALCOHOLIC BEVERAGES; TO PROVIDE THAT THE STATE TAX COMMISSION  
58 SHALL NOT BE A WHOLESALE DISTRIBUTOR OF ALCOHOLIC BEVERAGES; TO  
59 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE A WHOLESALE ALCOHOLIC  
60 BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE THAT SUCH PERMITS SHALL  
61 AUTHORIZE THE HOLDER THEREOF TO PURCHASE ALCOHOLIC BEVERAGES FROM  
62 ANY MANUFACTURER OR IMPORTER, TRANSPORT ALCOHOLIC BEVERAGES INTO  
63 THE STATE OF MISSISSIPPI, STORE ALCOHOLIC BEVERAGES AT THE PRIVATE  
64 BONDED WAREHOUSE OF SUCH PERMITTEE'S CHOICE AND SOLICIT ORDERS  
65 FROM AND SELL ALCOHOLIC BEVERAGES TO PERMITTEES WHO ARE AUTHORIZED  
66 TO SELL ALCOHOLIC BEVERAGES AT RETAIL; TO PROVIDE THAT RECORDS OF  
67 ORDERS MUST BE KEPT FOR THREE YEARS AND SHALL BE SUBJECT TO  
68 INSPECTION BY THE ALCOHOLIC BEVERAGE CONTROL DIVISION AT ANY TIME;  
69 TO REQUIRE THE HOLDER OF A WHOLESALE ALCOHOLIC BEVERAGE  
70 DISTRIBUTION PERMIT TO DELIVER ALCOHOLIC BEVERAGES WITHIN THREE  
71 DAYS OF RECEIPT OF THE ORDER; TO MAKE IT UNLAWFUL FOR THE HOLDER  
72 OF A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT TO HAVE A  
73 FINANCIAL INTEREST IN ANY PREMISES UPON WHICH ANY ALCOHOLIC  
74 BEVERAGE IS SOLD AT RETAIL; TO REPEAL SECTIONS 27-71-11, 27-71-13,  
75 27-71-17, 27-71-19, 67-1-47 AND 67-1-49, MISSISSIPPI CODE OF 1972,  
76 WHICH AUTHORIZE THE STATE TAX COMMISSION TO REQUEST THE STATE BOND  
77 COMMISSION TO PROVIDE SUFFICIENT FUNDS REQUIRED TO MAINTAIN AN  
78 ADEQUATE ALCOHOLIC BEVERAGE INVENTORY, REQUIRE THE STATE TAX  
79 COMMISSION TO PURCHASE DIRECTLY FROM THE MANUFACTURER, PROVIDE  
80 PENALTIES FOR SELLING ALCOHOLIC BEVERAGES NOT IDENTIFIED AS HAVING  
81 BEEN PURCHASED BY THE COMMISSION, REQUIRE DISTILLERS AND  
82 DISTRIBUTORS DEALING WITH THE STATE TAX COMMISSION TO REGISTER  
83 WITH THE SECRETARY OF STATE AND REQUIRE DISTILLERS HAVING  
84 CONTRACTS WITH THE STATE TAX COMMISSION TO FILE STATEMENTS OF  
85 SALARY EXPENSES; AND FOR RELATED PURPOSES.

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

87 **SECTION 1.** The Legislature finds that it is in the public  
88 interest to seek efficiencies and cost savings from privatizing  
89 the wholesale distribution of alcoholic beverages in this state.

90 **SECTION 2.** (1) The State Tax Commission shall enter into  
91 contracts with private entities for the franchise of, and may  
92 franchise all rights associated with, the wholesale distribution  
93 of alcoholic beverage in this state.

94 (2) The State Tax Commission shall establish not less than  
95 eight (8) service territories in the state in which private sector  
96 entities have the right to the wholesale distribution of alcoholic  
97 beverages. Within each service territory the State Tax Commission  
98 shall award not less than two (2) nor more than four (4)  
99 franchises for the wholesale distribution of alcoholic beverages  
100 in the service territory. Only private entities that are awarded

101 franchises in a service territory may distribute alcoholic  
102 beverages at wholesale in the service territory.

103 (3) The State Tax Commission shall adopt rules to effect the  
104 transfer of the distribution of alcoholic beverages to private  
105 entities. The rules shall include, but not be limited to:

106 (a) The method of transfer that promotes efficiency and  
107 cost savings to the state while ensuring highest possible revenue  
108 for the state;

109 (b) Procedures designed to encourage vigorous bidding  
110 for alcoholic beverage wholesale distribution rights;

111 (c) Criteria for eligibility as a wholesale distributor  
112 of alcoholic beverages.

113 (4) Any contract entered into with a private entity for a  
114 franchise for the wholesale distribution of alcoholic beverages  
115 shall provide for:

116 (a) A negotiated annual royalty payment in an amount of  
117 not less than ten percent (10%) of the gross wholesale sales of  
118 alcoholic beverages by the owner of the franchise.

119 (b) Penalties for failure to make any required payments  
120 to the State Tax Commission or the state or for otherwise  
121 violating the terms of the contract.

122 (5) The owner of a franchise may sell the franchise to  
123 another private entity only upon approval of the sale by the State  
124 Tax Commission.

125 (6) Amounts paid by a private entity for a franchise for the  
126 wholesale distribution of alcoholic beverages and annual royalty  
127 payments shall be deposited into the State General Fund.

128 **SECTION 3.** (1) It shall be unlawful for a manufacturer of  
129 alcoholic beverages, or anyone connected with the business of a  
130 manufacturer of alcoholic beverages, to have any financial  
131 interest in a franchise awarded under Section 2 of this act, or in  
132 the business conducted by such the holder of such a franchise.

133           (2) It shall be unlawful for a manufacturer of alcoholic  
134 beverages, or anyone connected with his, its, or their business to  
135 lend any money or make any gift or offer any gratuity, to the  
136 holder of a franchise awarded under Section 2 of this act or to an  
137 employee of the holder of such a franchise, except as authorized  
138 by regulations of the commission. Except as provided in this  
139 section, the holder of a franchise awarded under Section 2 of this  
140 act or the employees of such a holder shall not accept, receive,  
141 or make use of any money or gift furnished by any such person, or  
142 become indebted to such person except for the purchase of  
143 alcoholic beverages.

144           (3) The commission shall not prohibit the furnishing of  
145 advertising specialties, printed materials, or other things having  
146 nominal value to the holder of a franchise. This section shall  
147 not be construed to prohibit the possession by any person of  
148 advertising specialties, printed materials, or other things having  
149 nominal value furnished by the holder of a franchise.

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

155           **SECTION 4.** (1) The Department of Finance and  
156 Administration, acting on behalf of the State Tax Commission,  
157 shall sell all real property owned by the state and utilized by  
158 the State Tax Commission in connection with the wholesale  
159 distribution of alcoholic beverages by the commission.

160           (2) The real property authorized to be sold by subsection  
161 (1) of this section shall be sold for not less than the current  
162 fair market value as determined by the averaging of at least two  
163 (2) appraisals by qualified appraisers who shall be selected by  
164 the Department of Finance and Administration and shall be  
165 certified and licensed by the Mississippi Real Estate Appraiser

166 licensing and Certification Board. However, if no bid is received  
167 which is equal to the current market value after re-advertising  
168 the property, the property may be sold at auction to the highest  
169 bidder.

170 (3) Any funds received by the state for the sale of real  
171 property authorized to be sold by subsection (1) of this section  
172 shall be deposited into the State General Fund.

173 **SECTION 5.** Section 25-9-155, Mississippi Code of 1972, is  
174 amended as follows:

175 25-9-155. (1) The State Personnel Board shall grant  
176 part-time employees, as defined in Section 25-9-107(c)(xi), who  
177 are fully qualified, and time-limited employees, as defined in  
178 Section 25-9-107(c)(xiv), and all other nonstate service  
179 employees, who are fully qualified, preference over general public  
180 applicants for state service positions in the same manner that  
181 preference is given to employees in the state service, as defined  
182 in Section 25-9-107(b), for appointment in the state service.

183 (2) Through December 31, 2005, the State Personnel Board  
184 shall grant preference over all applicants for state service  
185 positions for appointment in the state service to persons who are  
186 dismissed from employment with the State Tax Commission as a  
187 result of removal of the commission from the responsibility for  
188 the wholesale distribution of alcoholic beverages pursuant to  
189 Section 2 of Senate Bill No. 2722, 2004 Regular Session.

190 **SECTION 6.** Section 27-71-5, Mississippi Code of 1972, is  
191 amended as follows:

192 27-71-5. (1) Upon each person approved for a permit under  
193 the provisions of the Alcoholic Beverage Control Law and  
194 amendments thereto, there is levied and imposed for each location  
195 for the privilege of engaging and continuing in this state in the  
196 business authorized by such permit, an annual privilege license  
197 tax in the amount provided in the following schedule:

198 (a) Manufacturer's permit, Class 1,

199	distiller's and/or rectifier's.....	\$4,500.00
200	(b) Manufacturer's permit, Class 2, wine	
201	manufacturer .....	\$1,800.00
202	(c) Manufacturer's permit, Class 3, native	
203	wine manufacturer per 10,000 gallons or part thereof	
204	produced.....	\$ 10.00
205	(d) Native wine retailer's permit.....	\$ 50.00
206	(e) Package retailer's permit, each.....	\$ 900.00
207	(f) On-premises retailer's permit, except	
208	for clubs and common carriers, each.....	\$ 450.00
209	On purchases exceeding \$5,000.00 and for each	
210	additional \$5,000.00, or fraction thereof.....	\$ 225.00
211	(g) On-premises retailer's permit for wine	
212	of more than four percent (4%) alcohol by volume, but	
213	not more than twenty-one percent (21%) alcohol by	
214	volume (each).....	\$ 225.00
215	On purchases exceeding \$5,000.00 and for each	
216	additional \$5,000.00, or fraction thereof.....	\$ 225.00
217	(h) On-premises retailer's permit for clubs..	\$ 225.00
218	On purchases exceeding \$5,000.00 and for each	
219	additional \$5,000.00, or fraction thereof.....	\$ 225.00
220	(i) On-premises retailer's permit for	
221	common carriers, per car, plane, or other vehicle.....	\$ 120.00
222	(j) Solicitor's permit, regardless of any	
223	other provision of law, solicitor's permits shall be	
224	issued only in the discretion of the commission.....	\$ 100.00
225	(k) Filing fee for each application except	
226	for an employee identification card.....	\$ 25.00
227	(l) Temporary permit, Class 1, each.....	\$ 10.00
228	(m) Temporary permit, Class 2, each.....	\$ 50.00
229	On-premises purchases exceeding \$5,000.00 and for	
230	each additional \$5,000.00, or fraction thereof.....	\$ 225.00
231	(n) (i) Caterer's permit.....	\$ 600.00

232	On purchases exceeding \$5,000.00 and for each	
233	additional \$5,000.00, or fraction thereof.....	\$ 250.00
234	(ii) Caterer's permit for holders of	
235	on-premises retailer's permit.....	\$ 150.00
236	On purchases exceeding \$5,000.00 and for each	
237	additional \$5,000.00, or fraction thereof.....	\$ 250.00
238	(o) Research permit.....	\$ 100.00
239	(p) Filing fee for each application for an	
240	employee identification card.....	\$ 5.00
241	(q) <u>Wholesale alcoholic beverage distribution</u>	
242	<u>permit</u> .....	<u>\$1,800.00</u>

243 In addition to the filing fee imposed by item (k) of this  
244 subsection, a fee to be determined by the State Tax Commission may  
245 be charged to defray costs incurred to process applications. Such  
246 additional fees shall be paid into the State Treasury to the  
247 credit of a special fund account, which is hereby created, and  
248 expenditures therefrom shall be made only to defray the costs  
249 incurred by the State Tax Commission in processing alcoholic  
250 beverage applications. Any unencumbered balance remaining in the  
251 special fund account on June 30 of any fiscal year shall lapse  
252 into the State General Fund.

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

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

264           (2) There is imposed and shall be collected from each  
265 permittee, except a common carrier, solicitor, holder of an  
266 employee identification card or a temporary permittee, by the  
267 commission, an additional license tax equal to the amounts imposed  
268 under subsection (1) of this section for the privilege of doing  
269 business within any municipality or county in which the licensee  
270 is located. If the licensee is located within a municipality, the  
271 commission shall pay the amount of additional license tax to the  
272 municipality, and if outside a municipality the commission shall  
273 pay the additional license tax to the county in which the licensee  
274 is located. Payments by the commission to the respective local  
275 government subdivisions shall be made once each month for any  
276 collections during the preceding month.

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

283           (4) The number of permits issued by the commission shall not  
284 be restricted or limited on a population basis; however, the  
285 foregoing limitation shall not be construed to preclude the right  
286 of the commission to refuse to issue a permit because of the  
287 undesirability of the proposed location.

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



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

303 **SECTION 7.** Section 27-71-7, Mississippi Code of 1972, is  
304 amended as follows:

305 27-71-7. (1) There is hereby levied and assessed an excise  
306 tax upon each case of alcoholic beverages sold by the holder of a  
307 wholesale alcoholic beverage distribution permit to be collected  
308 from each retail licensee at the time of sale in accordance with  
309 the following schedule:

- 310 (a) Distilled spirits..... \$2.50 per gallon
- 311 (b) Sparkling wine and champagne..... \$1.00 per gallon
- 312 (c) Other wines, including native  
313 wines..... \$ .35 per gallon

314 (2) (a) In addition to the tax levied by subsection (1) of  
315 this section, and in addition to any other markup collected, the  
316 holder of a wholesale alcoholic beverage distribution permit shall  
317 collect a markup of three percent (3%) on all alcoholic beverages,  
318 as defined in Section 67-1-5, Mississippi Code of 1972, which are  
319 sold by the holder of a wholesale alcoholic beverage distribution  
320 permit. The proceeds of the markup shall be collected by the  
321 holder of a wholesale alcoholic beverage distribution permit from  
322 each purchaser at the time of purchase.

323 \* \* \*

324 (b) \* \* \* The revenue derived from this three percent  
325 (3%) markup remitted to the State Tax Commission shall be  
326 deposited by the State Tax Commission in the State Treasury to the  
327 credit of the "Mental Health Programs Fund," a special fund which  
328 is hereby created in the State Treasury and shall be used by the

329 State Department of Mental Health for the service programs of the  
330 department. \* \* \*

331 The revenue derived from this tax and markup that is  
332 collected by the holder of a wholesale alcoholic beverage  
333 distribution permit shall be remitted by the holder of the  
334 wholesale alcoholic beverage distribution permit to the State Tax  
335 Commission at times prescribed by the commission.

336 **SECTION 8.** Section 27-71-9, Mississippi Code of 1972, is  
337 amended as follows:

338 27-71-9. The commission may promulgate regulations  
339 authorizing persons holding on-premises retailer's permits for  
340 common carriers, as provided herein, to file periodic reports and  
341 pay a tax based upon the value of alcoholic beverages sold while  
342 in this state. \* \* \*

343 **SECTION 9.** Section 27-71-15, Mississippi Code of 1972, is  
344 amended as follows:

345 27-71-15. Except as otherwise provided in Section 67-9-1 for  
346 the transportation of limited amounts of alcoholic beverages for  
347 the use of an alcohol processing permittee, if transportation  
348 requires passage through a county which has not authorized the  
349 sale of alcoholic beverages, such transportation shall be by a  
350 sealed vehicle. Such seal shall remain unbroken until the vehicle  
351 shall reach the place of business operated by the permittee. The  
352 operator of any vehicle transporting alcoholic beverages shall  
353 have in his possession an invoice issued by the holder of a  
354 wholesale alcoholic beverage distribution permit at the time of  
355 the wholesale sale covering the merchandise transported by the  
356 vehicle. The commission is authorized to issue regulations  
357 controlling the transportation of alcoholic beverages.

358 When the restrictions imposed by this section and by the  
359 regulation of the commission have not been violated, the person  
360 transporting alcoholic beverages through a county wherein the sale  
361 of alcoholic beverages is prohibited shall not be guilty of

362 unlawful possession and such merchandise shall be immune from  
363 seizure.

364 **SECTION 10.** Section 27-71-21, Mississippi Code of 1972, is  
365 amended as follows:

366 27-71-21. Before any person shall engage in the business of  
367 manufacturing, distributing or retailing of alcoholic beverages,  
368 he may be required to enter into a bond payable to the State of  
369 Mississippi, conditioned that he will conduct said business  
370 strictly in accordance with the laws of the State of Mississippi,  
371 and that he will comply with the rules and regulations prescribed  
372 by the commission, and pay all taxes due the State of Mississippi.  
373 The amount of bond required of a wholesale distributor shall be  
374 set by the commission; the amount of a bond required of a  
375 manufacturer, not including a producer of native wine, shall not  
376 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount  
377 required of a retailer shall be Five Thousand Dollars (\$5,000.00).  
378 Provided, however, any retailer whose check for purchase of  
379 merchandise or payment of taxes shall be dishonored may be  
380 required by the commission to post additional bond not to exceed  
381 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a  
382 surety company authorized to do business in the State of  
383 Mississippi and shall be approved by the commission. The  
384 commission shall be authorized to institute suit in the proper  
385 court for any violation of the condition of said bonds. The  
386 amount of the bond required of a producer of native wine shall be  
387 Five Thousand Dollars (\$5,000.00).

388 As an alternative to entering into a bond as required by this  
389 section, any person who shall engage in the business of  
390 manufacturing, distributing or retailing alcoholic beverages may,  
391 subject to the same conditions of conduct required for bonds,  
392 deposit with the State Treasurer the equivalent amount of the bond  
393 required for that particular person in cash or securities. The  
394 only securities allowable for this purpose are those which may

395 legally be purchased by a bank or for trust funds, having a market  
396 value not less than that of the required bond. The commission  
397 shall file notice with the Treasurer for any violation of the  
398 conditions of the cash or security deposit.

399       **SECTION 11.** Section 67-1-5, Mississippi Code of 1972, is  
400 amended as follows:

401       67-1-5. For the purposes of this chapter and unless  
402 otherwise required by the context:

403           (a) \* \* \* "Alcoholic beverage" mean any alcoholic  
404 liquid, including wines of more than five percent (5%) of alcohol  
405 by weight, capable of being consumed as a beverage by a human  
406 being, but shall not include wine containing five percent (5%) or  
407 less of alcohol by weight and shall not include beer containing  
408 not more than five percent (5%) of alcohol by weight, as provided  
409 for in Section 67-3-5, Mississippi Code of 1972, but shall include  
410 native wines. The words "alcoholic beverage" shall not include  
411 ethyl alcohol manufactured or distilled solely for fuel purposes.

412           (b) \* \* \* "Alcohol" means the product of distillation  
413 of any fermented liquid, whatever the origin thereof, and includes  
414 synthetic ethyl alcohol, but does not include denatured alcohol or  
415 wood alcohol.

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

420           (d) \* \* \* "Wine" or "vinous liquor" mean any product  
421 obtained from the alcoholic fermentation of the juice of sound,  
422 ripe grapes, fruits or berries and made in accordance with the  
423 revenue laws of the United States.

424           (e) \* \* \* "Person" means and includes any individual,  
425 partnership, corporation, association or other legal entity  
426 whatsoever.

427 (f) \* \* \* "Manufacturer" means any person engaged in  
428 manufacturing, distilling, rectifying, blending or bottling any  
429 alcoholic beverage.

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

434 (h) \* \* \* "Retailer" means any person who sells,  
435 distributes, or offers for sale or distribution, any alcoholic  
436 beverage for use or consumption by the purchaser and not for  
437 resale.

438 (i) \* \* \* "Commission" means the State Tax Commission  
439 of the State of Mississippi, which shall create a division in its  
440 organization to be known as the Alcoholic Beverage Control  
441 Division. Any reference to the commission hereafter means the  
442 powers and duties of the State Tax Commission with reference to  
443 supervision of the Alcoholic Beverage Control Division.

444 (j) \* \* \* "Division" means the Alcoholic Beverage  
445 Control Division of the State Tax Commission.

446 (k) \* \* \* "Municipality" means any incorporated city or  
447 town of this state.

448 (l) \* \* \* "Hotel" means an establishment within a  
449 municipality, or within a qualified resort area approved as such  
450 by the commission, where, in consideration of payment, food and  
451 lodging are habitually furnished to travelers and wherein are  
452 located at least twenty (20) adequately furnished and completely  
453 separate sleeping rooms with adequate facilities that persons  
454 usually apply for and receive as overnight accommodations. Hotels  
455 in towns or cities of more than twenty-five thousand (25,000)  
456 population are similarly defined except that they must have fifty  
457 (50) or more sleeping rooms. Any such establishment described in  
458 this paragraph with less than fifty (50) beds shall operate one or  
459 more regular dining rooms designed to be constantly frequented by

460 customers each day. When used in this chapter, the word "hotel"  
461 shall also be construed to include any establishment that meets  
462 the definition of "bed and breakfast inn" as provided in this  
463 section.

464 (m) \* \* \* "Restaurant" means a place which is regularly  
465 and in a bona fide manner used and kept open for the serving of  
466 meals to guests for compensation, which has suitable seating  
467 facilities for guests, and which has suitable kitchen facilities  
468 connected therewith for cooking an assortment of foods and meals  
469 commonly ordered at various hours of the day; the service of such  
470 food as sandwiches and salads only shall not be deemed in  
471 compliance with this requirement. No place shall qualify as a  
472 restaurant under this chapter unless twenty-five percent (25%) or  
473 more of the revenue derived from such place shall be from the  
474 preparation, cooking and serving of meals and not from the sale of  
475 beverages, or unless the value of food given to and consumed by  
476 customers is equal to twenty-five percent (25%) or more of total  
477 revenue.

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

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

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

484 (iii) Maintained by its members through the  
485 payment of annual dues;

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

490 (v) The affairs and management of which are  
491 conducted by a board of directors, board of governors, executive

492 committee, or similar governing body chosen by the members at a  
493 regular meeting held at some periodic interval; and

494           (vi) No member, officer, agent or employee of  
495 which is paid, or directly or indirectly receives, in the form of  
496 a salary or other compensation any profit from the distribution or  
497 sale of alcoholic beverages to the club or to members or guests of  
498 the club beyond such salary or compensation as may be fixed and  
499 voted at a proper meeting by the board of directors or other  
500 governing body out of the general revenues of the club.

501           The commission may, in its discretion, waive the five-year  
502 provision of this paragraph. In order to qualify under this  
503 paragraph, a club must file with the commission, at the time of  
504 its application for a license under this chapter, two (2) copies  
505 of a list of the names and residences of its members and similarly  
506 file, within ten (10) days after the election of any additional  
507 member, his name and address. Each club applying for a license  
508 shall also file with the commission at the time of the application  
509 a copy of its articles of association, charter of incorporation,  
510 bylaws or other instruments governing the business and affairs  
511 thereof.

512           (o) \* \* \* "Qualified resort area" means any area or  
513 locality outside of the limits of incorporated municipalities in  
514 this state commonly known and accepted as a place which regularly  
515 and customarily attracts tourists, vacationists and other  
516 transients because of its historical, scenic or recreational  
517 facilities or attractions, or because of other attributes which  
518 regularly and customarily appeal to and attract tourists,  
519 vacationists and other transients in substantial numbers; however,  
520 no area or locality shall so qualify as a resort area until it has  
521 been duly and properly approved as such by the commission.

522           (i) The commission may approve an area or locality  
523 outside of the limits of an incorporated municipality that is in  
524 the process of being developed as a qualified resort area if such

525 area or locality, when developed, can reasonably be expected to  
526 meet the requisites of the definition of the term "qualified  
527 resort area." In such a case, the status of qualified resort area  
528 shall not take effect until completion of the development.

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

537 (iii) The term includes the clubhouses associated  
538 with the state park golf courses at the Lefleur's Bluff State  
539 Park, the John Kyle State Park, the Percy Quin State Park and the  
540 Hugh White State Park. The status of these clubhouses as  
541 qualified resort areas does not require any declaration of same by  
542 the commission.

543 (p) \* \* \* "Native wine" means any product, produced in  
544 Mississippi for sale, having an alcohol content not to exceed  
545 twenty-one percent (21%) by weight and made in accordance with  
546 revenue laws of the United States, which shall be obtained  
547 primarily from the alcoholic fermentation of the juice of ripe  
548 grapes, fruits, berries or vegetables grown and produced in  
549 Mississippi; provided that bulk, concentrated or fortified wines  
550 used for blending may be produced without this state and used in  
551 producing native wines. The commission shall adopt and promulgate  
552 rules and regulations to permit a producer to import such bulk  
553 and/or fortified wines into this state for use in blending with  
554 native wines without payment of any excise tax that would  
555 otherwise accrue thereon.



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

559 (r) \* \* \* "Bed and breakfast inn" means an  
560 establishment within a municipality where in consideration of  
561 payment, breakfast and lodging are habitually furnished to  
562 travelers and wherein are located not less than eight (8) and not  
563 more than nineteen (19) adequately furnished and completely  
564 separate sleeping rooms with adequate facilities, that persons  
565 usually apply for and receive as overnight accommodations;  
566 however, such restriction on the minimum number of sleeping rooms  
567 shall not apply to establishments on the National Register of  
568 Historic Places. No place shall qualify as a bed and breakfast  
569 inn under this chapter unless on the date of the initial  
570 application for a license under this chapter more than fifty  
571 percent (50%) of the sleeping rooms are located in a structure  
572 formerly used as a residence.

573 (s) "Wholesale alcoholic beverage distributor" means a  
574 person engaged in purchasing, transporting and storing alcoholic  
575 beverages within the State of Mississippi and selling at wholesale  
576 alcoholic beverages to permittees who are authorized to sell  
577 alcoholic beverages at retail.

578 **SECTION 12.** Section 67-1-9, Mississippi Code of 1972, is  
579 amended as follows:

580 67-1-9. (1) It shall be unlawful for any person to  
581 manufacture, distill, brew, sell, possess, import into this state,  
582 export from the state, transport, distribute, warehouse, store,  
583 solicit, take order for, bottle, rectify, blend, treat, mix or  
584 process any alcoholic beverage except as authorized in this  
585 chapter. However, nothing contained herein shall prevent  
586 importers, wineries and distillers of alcoholic beverages from  
587 storing such alcoholic beverages in private bonded warehouses  
588 located within the State of Mississippi, and nothing contained

589 herein shall prohibit the holder of a wholesale alcoholic beverage  
590 distribution permit from storing alcoholic beverages in private  
591 bonded warehouses located in the State of Mississippi for resale  
592 to authorized permittees. The commission is hereby authorized to  
593 promulgate rules and regulations for the establishment of such  
594 private bonded warehouses and for the control of alcoholic  
595 beverages stored in such warehouses. Additionally, nothing herein  
596 contained shall prevent any duly licensed practicing physician or  
597 dentist from possessing or using alcoholic liquor in the strict  
598 practice of his profession, or prevent any hospital or other  
599 institution caring for sick and diseased persons, from possessing  
600 and using alcoholic liquor for the treatment of bona fide patients  
601 of such hospital or other institution. Any drugstore employing a  
602 licensed pharmacist may possess and use alcoholic liquors in the  
603 combination of prescriptions of duly licensed physicians. The  
604 possession and dispensation of wine by an authorized  
605 representative of any church for the purpose of conducting any  
606 bona fide rite or religious ceremony conducted by such church  
607 shall not be prohibited by this chapter.

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

610 (a) By a fine of not less than One Hundred Dollars  
611 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by  
612 imprisonment in the county jail not less than one (1) week nor  
613 more than three (3) months, or both, for the first conviction  
614 under this section.

615 (b) By a fine of not less than One Hundred Dollars  
616 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
617 imprisonment in the county jail not less than sixty (60) days, nor  
618 more than six (6) months, or both fine and imprisonment, for the  
619 second conviction for violating this section.

620 (c) By a fine of not less than One Hundred Dollars  
621 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by

622 imprisonment in the State Penitentiary not less than one (1) year,  
623 nor more than five (5) years, or both fine and imprisonment, for  
624 conviction the third time under this section for the violation  
625 thereof after having been twice convicted of its violation.

626         **SECTION 13.** Section 67-1-37, Mississippi Code of 1972, is  
627 amended as follows:

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

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

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

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

655 the provisions of Section 93-11-157 or Section 93-11-163, as the  
656 case may be, shall control.

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

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

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

667 (f) To issue reasonable rules and regulations, not  
668 inconsistent with the federal laws or regulations, requiring  
669 informative labeling of all alcoholic beverages offered for sale  
670 within this state and providing for the standards of fill and  
671 shapes of retail containers of alcoholic beverages; however, such  
672 containers shall not contain less than fifty (50) milliliters by  
673 liquid measure.

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

684 (h) To adopt and promulgate, repeal and amend, such  
685 rules, regulations, standards, requirements and orders, not  
686 inconsistent with this chapter or any law of this state or of the  
687 United States, as it deems necessary to control the manufacture,

688 importation, transportation, distribution and sale of alcoholic  
689 liquor, whether intended for beverage or nonbeverage use in a  
690 manner not inconsistent with the provisions of this chapter or any  
691 other statute, including the native wine laws.

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

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

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

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

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

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

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

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

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

744 (r) To enforce the provisions made unlawful by Sections  
745 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

746 (s) To adopt and promulgate rules and regulations  
747 governing the wholesale distribution of alcoholic beverages.

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

750 67-1-37. The State Tax Commission, under its duties and  
751 powers with respect to the Alcoholic Beverage Control Division  
752 therein, shall have the following powers, functions and duties:

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

757           (b) To revoke, suspend or cancel, for violation of or  
758 noncompliance with the provisions of this chapter, or the law  
759 governing the production and sale of native wines, or any lawful  
760 rules and regulations of the commission issued hereunder, or for  
761 other sufficient cause, any permit issued by it under the  
762 provisions of this chapter; however, no such permit shall be  
763 revoked, suspended or cancelled except after a hearing of which  
764 the permit holder shall have been given reasonable notice and an  
765 opportunity to be heard. The commission shall be authorized to  
766 suspend the permit of any permit holder for being out of  
767 compliance with an order for support, as defined in Section  
768 93-11-153. The procedure for suspension of a permit for being out  
769 of compliance with an order for support, and the procedure for the  
770 reissuance or reinstatement of a permit suspended for that  
771 purpose, and the payment of any fees for the reissuance or  
772 reinstatement of a permit suspended for that purpose, shall be  
773 governed by Section 93-11-157 or 93-11-163, as the case may be.  
774 If there is any conflict between any provision of Section  
775 93-11-157 or 93-11-163 and any provision of this chapter, the  
776 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
777 shall control.

778           (c) To prescribe forms of permits and applications for  
779 permits and of all reports which it deems necessary in  
780 administering this chapter.

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

785           (e) To issue rules regulating the advertising of  
786 alcoholic beverages in the state in any class of media and  
787 permitting advertising of the retail price of alcoholic beverages.

788           (f) To issue reasonable rules and regulations, not  
789 inconsistent with the federal laws or regulations, requiring  
790 informative labeling of all alcoholic beverages offered for sale  
791 within this state and providing for the standards of fill and  
792 shapes of retail containers of alcoholic beverages; however, such  
793 containers shall not contain less than fifty (50) milliliters by  
794 liquid measure.

795           (g) Subject to the provisions of \* \* \* Section  
796 67-1-51(3), to issue rules and regulations governing the issuance  
797 of retail permits for premises located near or around schools,  
798 colleges, universities, churches and other public institutions,  
799 and specifying the distances therefrom within which no such permit  
800 shall be issued. The Alcoholic Beverage Control Division shall  
801 not allow the sale or consumption of alcoholic beverages in or on  
802 the campus of any public school or college, and no alcoholic  
803 beverage shall be for sale or consumed at any public athletic  
804 event at any grammar or high school or any college.

805           (h) To adopt and promulgate, repeal and amend, such  
806 rules, regulations, standards, requirements and orders, not  
807 inconsistent with this chapter or any law of this state or of the  
808 United States, as it deems necessary to control the manufacture,  
809 importation, transportation, distribution and sale of alcoholic  
810 liquor, whether intended for beverage or nonbeverage use in a  
811 manner not inconsistent with the provisions of this chapter or any  
812 other statute, including the native wine laws.

813           (i) To call upon other administrative departments of  
814 the state, county and municipal governments, county and city  
815 police departments and upon prosecuting officers for such  
816 information and assistance as it may deem necessary in the  
817 performance of its duties.



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

824           (k) To inspect, or cause to be inspected, any premises  
825 where alcoholic liquors intended for sale are manufactured,  
826 stored, distributed or sold, and to examine or cause to be  
827 examined all books and records pertaining to the business  
828 conducted therein.

829           (l) In the conduct of any hearing authorized to be held  
830 by the commission, to hear testimony and take proof material for  
831 its information in the discharge of its duties under this chapter;  
832 to issue subpoenas, which shall be effective in any part of this  
833 state, requiring the attendance of witnesses and the production of  
834 books and records; to administer or cause to be administered  
835 oaths; and to examine or cause to be examined any witness under  
836 oath. Any court of record, or any judge thereof, may by order  
837 duly entered require the attendance of witnesses and the  
838 production of relevant books subpoenaed by the commission, and  
839 such court or judge may compel obedience to its or his order by  
840 proceedings for contempt.

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

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

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

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

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

861 (q) To adopt and promulgate rules and regulations for  
862 suspension or revocation of identification cards of employees of  
863 permittees for violations of the alcoholic beverage control laws,  
864 rules or regulations.

865 (r) To adopt and promulgate rules and regulations  
866 governing the wholesale distribution of alcoholic beverages.

867 **SECTION 14.** Section 67-1-41, Mississippi Code of 1972, is  
868 amended as follows:

869 67-1-41. \* \* \*

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

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

880 (3) The commission may promulgate rules and regulations  
881 which authorize on-premises retailers to purchase limited amounts  
882 of alcoholic beverages from package retailers and for package  
883 retailers to purchase limited amounts of alcoholic beverages from

884 other package retailers. The commission shall develop and provide  
885 forms to be completed by the on-premises retailers and the package  
886 retailers verifying the transaction. The completed forms shall be  
887 forwarded to the commission within a period of time prescribed by  
888 the commission.

889 \* \* \*

890 (4) The commission shall maintain all forms to be completed  
891 by applicants necessary for licensure by the commission at all  
892 district offices of the commission.

893 (5) The commission may promulgate rules which authorize the  
894 manufacturer of an alcoholic beverage or wine to import, transport  
895 and furnish or give a sample of alcoholic beverages or wines to  
896 the holders of package retailer's permits, on-premises retailer's  
897 permits, native wine retailer's permits and temporary retailer's  
898 permits who have not previously purchased the brand of that  
899 manufacturer from the commission. For each holder of the  
900 designated permits, the manufacturer may furnish not more than  
901 five hundred (500) milliliters of any brand of alcoholic beverage  
902 and not more than three (3) liters of any brand of wine.

903 (6) The commission may promulgate rules disallowing open  
904 product sampling of alcoholic beverages or wines by the holders of  
905 package retailer's permits and permitting open product sampling of  
906 alcoholic beverages by the holders of on-premises retailer's  
907 permits. Permitted sample products shall be plainly identified  
908 "sample" and the actual sampling must occur in the presence of the  
909 manufacturer's representatives during the legal operating hours of  
910 on-premises retailers.

911 (7) The commission may promulgate rules and regulations that  
912 authorize the holder of a research permit to import and purchase  
913 limited amounts of alcoholic beverages from importers, wineries,  
914 distillers and wholesale distributors of alcoholic  
915 beverages \* \* \*. The commission shall develop and provide forms  
916 to be completed by the research permittee verifying each

917 transaction. The completed forms shall be forwarded to the  
918 commission within a period of time prescribed by the commission.  
919 The records and inventory of alcoholic beverages shall be open to  
920 inspection at any time by the Director of the Alcoholic Beverage  
921 Control Division or any duly authorized agent.

922 **SECTION 15.** Section 67-1-43, Mississippi Code of 1972, is  
923 amended as follows:

924 67-1-43. Any authorized retail distributor who shall  
925 purchase or receive intoxicating liquor from any source except  
926 from the holder of a wholesale alcoholic beverage distribution  
927 permit, unless authorized by rules and regulations of the  
928 commission promulgated under subsection (4) of Section 67-1-41,  
929 shall be guilty of a misdemeanor and upon conviction thereof shall  
930 be punished by a fine of not less than Five Hundred Dollars  
931 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to  
932 which may be added imprisonment in the county jail for not more  
933 than six (6) months. Any authorization of such person to sell  
934 intoxicating beverages may be revoked as provided by law.

935 This section shall not apply to any authorized retail  
936 distributor who shall purchase native wines directly from the  
937 producer.

938 **SECTION 16.** Section 67-1-45, Mississippi Code of 1972, is  
939 amended as follows:

940 67-1-45. No manufacturer, rectifier, \* \* \* distiller or  
941 wholesale distributor of intoxicating liquor shall sell or attempt  
942 to sell any such intoxicating liquor, except malt liquor, within  
943 the State of Mississippi, except as authorized in this  
944 chapter. \* \* \* A producer of native wine may sell native wines to  
945 an \* \* \* authorized retail distributor or directly to consumers.

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

949 (\$2,000.00), to which may be added imprisonment in the county jail  
950 not to exceed six (6) months.

951 **SECTION 17.** Section 67-1-51, Mississippi Code of 1972, is  
952 amended as follows:

953 67-1-51. (1) Permits which may be issued by the commission  
954 shall be as follows:

955 (a) **Manufacturer's permit.** A manufacturer's permit  
956 shall permit the manufacture, importation in bulk, bottling and  
957 storage of alcoholic liquor and its distribution and sale to  
958 manufacturers holding permits under this chapter in this state and  
959 to persons outside the state who are authorized by law to purchase  
960 the same \* \* \*. Manufacturer's permits shall be of the following  
961 classes:

962 Class 1. Distiller's and/or rectifier's permit, which  
963 shall authorize the holder thereof to operate a distillery for the  
964 production of distilled spirits by distillation or redistillation  
965 and/or to operate a rectifying plant for the purifying, refining,  
966 mixing, blending, flavoring or reducing in proof of distilled  
967 spirits and alcohol.

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

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

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

982 at retail of packages of alcoholic beverages, the holder of a  
983 package retailer's permit is authorized to sell at retail  
984 corkscrews, wine glasses, soft drinks, ice, juices, mixers and  
985 other beverages commonly used to mix with alcoholic beverages.  
986 Nonalcoholic beverages sold by the holder of a package retailer's  
987 permit shall not be consumed on the premises where sold.

988 (c) **On-premises retailer's permit.** An on-premises  
989 retailer's permit shall authorize the sale of alcoholic beverages,  
990 including native wines, for consumption on the licensed premises  
991 only. Such a permit shall issue only to qualified hotels,  
992 restaurants and clubs, and to common carriers with adequate  
993 facilities for serving passengers. In resort areas, whether  
994 inside or outside of a municipality, the commission may, in its  
995 discretion, issue on-premises retailer's permits to such  
996 establishments as it deems proper. An on-premises retailer's  
997 permit when issued to a common carrier shall authorize the sale  
998 and serving of alcoholic beverages aboard any licensed vehicle  
999 while moving through any county of the state; however, the sale of  
1000 such alcoholic beverages shall not be permitted while such vehicle  
1001 is stopped in a county that has not legalized such sales.

1002 (d) **Solicitor's permit.** A solicitor's permit shall  
1003 authorize the holder thereof to act as salesman for a manufacturer  
1004 or wholesaler holding a proper permit, to solicit on behalf of his  
1005 employer orders for alcoholic beverages, and to otherwise promote  
1006 his employer's products in a legitimate manner. Such a permit  
1007 shall authorize the representation of and employment by one (1)  
1008 principal only. However, the permittee may also, in the  
1009 discretion of the commission, be issued additional permits to  
1010 represent other principals. No such permittee shall buy or sell  
1011 alcoholic beverages for his own account, and no such beverage  
1012 shall be brought into this state in pursuance of the exercise of  
1013 such permit otherwise than through a permit issued to a wholesaler  
1014 or manufacturer in the state.

1015           (e) **Native wine retailer's permit.** A native wine  
1016 retailer's permit shall be issued only to a holder of a Class 3  
1017 manufacturer's permit, and shall authorize the holder thereof to  
1018 make retail sales of native wines to consumers for on-premises  
1019 consumption or to consumers in originally sealed and unopened  
1020 containers at an establishment located on the premises of or in  
1021 the immediate vicinity of a native winery.

1022           (f) **Temporary retailer's permit.** A temporary  
1023 retailer's permit shall permit the purchase and resale of  
1024 alcoholic beverages, including native wines, during legal hours on  
1025 the premises described in the temporary permit only.

1026           Temporary retailer's permits shall be of the following  
1027 classes:

1028           Class 1. A temporary one-day permit may be issued to bona  
1029 fide nonprofit civic or charitable organizations authorizing the  
1030 sale of alcoholic beverages, including native wine, for  
1031 consumption on the premises described in the temporary permit  
1032 only. Class 1 permits may be issued only to applicants  
1033 demonstrating to the commission, by affidavit submitted ten (10)  
1034 days prior to the proposed date or such other time as the  
1035 commission may determine, that they meet the qualifications of  
1036 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57  
1037 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
1038 obtain all alcoholic beverages from package retailers located in  
1039 the county in which the temporary permit is issued. Alcoholic  
1040 beverages remaining in stock upon expiration of the temporary  
1041 permit may be returned by the permittee to the package retailer  
1042 for a refund of the purchase price upon consent of the package  
1043 retailer or may be kept by the permittee exclusively for personal  
1044 use and consumption, subject to all laws pertaining to the illegal  
1045 sale and possession of alcoholic beverages. The commission,  
1046 following review of the affidavit and the requirements of the  
1047 applicable statutes and regulations, may issue the permit.

1048           Class 2. A temporary permit, not to exceed seventy (70)  
1049 days, may be issued to prospective permittees seeking to transfer  
1050 a permit authorized in either paragraph (b) or (c) of this  
1051 section. A Class 2 permit may be issued only to applicants  
1052 demonstrating to the commission, by affidavit, that they meet the  
1053 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),  
1054 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The  
1055 commission, following a preliminary review of the affidavit and  
1056 the requirements of the applicable statutes and regulations, may  
1057 issue the permit.

1058           Class 2 temporary permittees must purchase their alcoholic  
1059 beverages directly from the commission or, with approval of the  
1060 commission, purchase the remaining stock of the previous  
1061 permittee. If the proposed applicant of a Class 1 or Class 2  
1062 temporary permit falsifies information contained in the  
1063 application or affidavit, the applicant shall never again be  
1064 eligible for a retail alcohol beverage permit and shall be subject  
1065 to prosecution for perjury.

1066           (g) **Caterer's permit.** A caterer's permit shall permit  
1067 the purchase of alcoholic beverages by a person engaging in  
1068 business as a caterer and the resale of alcoholic beverages by  
1069 such person in conjunction with such catering business. No person  
1070 shall qualify as a caterer unless forty percent (40%) or more of  
1071 the revenue derived from such catering business shall be from the  
1072 serving of prepared food and not from the sale of alcoholic  
1073 beverages and unless such person has obtained a permit for such  
1074 business from the Department of Health. A caterer's permit shall  
1075 not authorize the sale of alcoholic beverages on the premises of  
1076 the person engaging in business as a caterer; however, the holder  
1077 of an on-premises retailer's permit may hold a caterer's permit.  
1078 All sales of alcoholic beverages by holders of a caterer's permit  
1079 shall be made at the location being catered by the caterer, and  
1080 such sales may be made only for consumption at the catered



1081 location. Such sales shall be made pursuant to any other  
1082 conditions and restrictions which apply to sales made by  
1083 on-premises retail permittees. The holder of a caterer's permit  
1084 or his employees shall remain at the catered location as long as  
1085 alcoholic beverages are being sold pursuant to the permit issued  
1086 under this paragraph (g), and the permittee and employees at such  
1087 location shall each have personal identification cards issued by  
1088 the Alcoholic Beverage Control Division of the commission. No  
1089 unsold alcoholic beverages may be left at the catered location by  
1090 the permittee upon the conclusion of his business at that  
1091 location. Appropriate law enforcement officers and Alcoholic  
1092 Beverage Control Division personnel may enter a catered location  
1093 on private property in order to enforce laws governing the sale or  
1094 serving of alcoholic beverages.

1095 (h) **Research Permit.** A research permit shall authorize  
1096 the holder thereof to operate a research facility for the  
1097 professional research of alcoholic beverages. Such permit shall  
1098 authorize the holder of the permit to import and purchase limited  
1099 amounts of alcoholic beverages from \* \* \* importers, wineries,  
1100 distillers and distributors of alcoholic beverages for  
1101 professional research.

1102 (i) **Alcohol processing permit.** An alcohol processing  
1103 permit shall authorize the holder thereof to purchase, transport  
1104 and possess alcoholic beverages for the exclusive use in cooking,  
1105 processing or manufacturing products which contain alcoholic  
1106 beverages as an integral ingredient. An alcohol processing permit  
1107 shall not authorize the sale of alcoholic beverages on the  
1108 premises of the person engaging in the business of cooking,  
1109 processing or manufacturing products which contain alcoholic  
1110 beverages. The amounts of alcoholic beverages allowed under an  
1111 alcohol processing permit shall be set by the commission.

1112 (j) **Wholesale alcoholic beverage distribution permit.**  
1113 A wholesale alcoholic beverage distribution permit shall be issued

1114 only to private entities who are granted the authority to  
1115 distribute alcoholic beverages at retail pursuant to Section 2 of  
1116 Senate Bill No. 2722, 2004 Regular Session. Such permit shall  
1117 authorize the holder thereof to purchase for resale, to store and  
1118 to distribute to authorized permittees, alcoholic beverages. Such  
1119 permit shall entitle the holder thereof to purchase alcoholic  
1120 beverages from any manufacturer or importer for the purpose of  
1121 resale in this state to permittees that are authorized to sell  
1122 alcoholic beverages at retail. The holder of a wholesale  
1123 alcoholic beverage distribution permit may transport alcoholic  
1124 beverages into the State of Mississippi and store such alcoholic  
1125 beverages in a private bonded warehouse of such permittee's choice  
1126 for sale to permittees who are authorized to sell alcoholic  
1127 beverages at retail. The holder of a wholesale alcoholic beverage  
1128 distribution permit may solicit orders for alcoholic beverages  
1129 from any permittee that is authorized to sell alcoholic beverages  
1130 at retail. Records of such orders shall be kept and maintained  
1131 for a period of three (3) years after the order is taken and shall  
1132 be subject to inspection by the division at any time without prior  
1133 notice.

1134       (2) Except as otherwise provided in subsection (4) of this  
1135 section, retail permittees may hold more than one (1) retail  
1136 permit, at the discretion of the commission.

1137       (3) Except as otherwise provided in this subsection, no  
1138 authority shall be granted to any person to manufacture, sell or  
1139 store for sale any intoxicating liquor as specified in this  
1140 chapter within four hundred (400) feet of any church, school,  
1141 kindergarten or funeral home. However, within an area zoned  
1142 commercial or business, such minimum distance shall be not less  
1143 than one hundred (100) feet.

1144       A church or funeral home may waive the distance restrictions  
1145 imposed in this subsection in favor of allowing issuance by the  
1146 commission of a permit, pursuant to subsection (1) of this

1147 section, to authorize activity relating to the manufacturing, sale  
1148 or storage of alcoholic beverages which would otherwise be  
1149 prohibited under the minimum distance criterion. Such waiver  
1150 shall be in written form from the owner, the governing body, or  
1151 the appropriate officer of the church or funeral home having the  
1152 authority to execute such a waiver, and the waiver shall be filed  
1153 with and verified by the commission before becoming effective.

1154 The distance restrictions imposed in this subsection shall  
1155 not apply to the sale or storage of alcoholic beverages at a bed  
1156 and breakfast inn listed in the National Register of Historic  
1157 Places.

1158 (4) No person, either individually or as a member of a firm,  
1159 partnership or association, or as a stockholder, officer or  
1160 director in a corporation, shall own or control any interest in  
1161 more than one (1) package retailer's permit, nor shall such  
1162 person's spouse, if living in the same household of such person,  
1163 any relative of such person, if living in the same household of  
1164 such person, or any other person living in the same household with  
1165 such person own any interest in any other package retailer's  
1166 permit.

1167 **SECTION 18.** Section 67-1-77, Mississippi Code of 1972, is  
1168 amended as follows:

1169 67-1-77. (1) It shall be unlawful for the holder of a  
1170 manufacturer's permit, wholesale alcoholic beverage distribution  
1171 permit, or anyone connected with the business of such holder, or  
1172 for any other distiller, wine manufacturer, wholesale distributor,  
1173 brewer, rectifier, blender or bottler, to have any financial  
1174 interest in any premises upon which any alcoholic beverage is sold  
1175 at retail by any permittee, or in the business conducted by such  
1176 permittee; provided, however, the holder of a manufacturer's or  
1177 wholesale alcoholic beverage distribution permit may contract for  
1178 the service of a representative in the area of governmental

1179 affairs on a part-time basis with a holder of an on-premises  
1180 permit.

1181 (2) It shall \* \* \* be unlawful for any such person, or  
1182 anyone connected with his, its, or their business to lend any  
1183 money or make any gift or offer any gratuity, to any retail  
1184 permittee, except as authorized by regulations of the commission,  
1185 to the holder of any retail permit issued under the provisions of  
1186 this chapter. Except as above provided, no retail permittee shall  
1187 accept, receive, or make use of any money or gift furnished by any  
1188 such person, or become indebted to such person except for the  
1189 purchase of alcoholic beverages.

1190 (3) The commission shall not prohibit the furnishing of  
1191 advertising specialties, printed materials, or other things having  
1192 nominal value to a retail permittee. This section shall not be  
1193 construed to prohibit the possession by any person of advertising  
1194 specialties, printed materials, or other things having nominal  
1195 value furnished by a retail permittee.

1196 (4) Any person violating the provisions of this section  
1197 shall, upon conviction, be punished by a fine of not more than  
1198 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more  
1199 than two (2) years, or by both such fine and imprisonment, in the  
1200 discretion of the court.

1201 **SECTION 19.** Section 67-1-79, Mississippi Code of 1972, is  
1202 amended as follows:

1203 67-1-79. \* \* \* (1) Each delivery of any alcoholic beverage  
1204 to a retail permittee shall be accompanied by an invoice of sale  
1205 or delivery slip which shall bear as its date the date of delivery  
1206 of such alcoholic beverage.

1207 (2) The holder of a wholesale alcoholic beverage  
1208 distribution permit shall deliver alcoholic beverages ordered by  
1209 retail permittees within three (3) days of the receipt of an order  
1210 made by the retail permittee.

1211           **SECTION 20.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,  
1212 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the  
1213 State Tax Commission to request the State Bond Commission to  
1214 provide sufficient funds required to maintain an adequate  
1215 alcoholic beverage inventory, require the State Tax Commission to  
1216 purchase directly from the manufacturer, provide penalties for  
1217 selling alcoholic beverages not identified as having been  
1218 purchased by the commission, require distillers and distributors  
1219 dealing with the State Tax Commission to register with the  
1220 Secretary of State and require distillers having contracts with  
1221 the State Tax Commission to file statements of salary expenses,  
1222 are repealed.

1223           **SECTION 21.** Sections 1 and 2 of this act shall be codified  
1224 in Chapter 1, Title 25, Mississippi Code of 1972.

1225           **SECTION 22.** Sections 1, 2, 3 and 4 of this act shall take  
1226 effect and be in force from and after their passage; the remainder  
1227 shall take effect and be in force from and after January 1, 2005.