

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 399

1 AN ACT TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-11,
2 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-45,
3 67-1-51 AND 67-1-77, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
4 DISTRIBUTION OF WINE BY PRIVATE ENTITIES; TO PROVIDE THE ANNUAL
5 PRIVILEGE LICENSE TAX FOR A WINE DISTRIBUTOR'S PERMIT; TO PROVIDE
6 FOR AN EXCISE TAX ON WINE SOLD BY THE HOLDER OF A WINE
7 DISTRIBUTOR'S PERMIT AND THE COLLECTION OF SUCH TAX; TO REQUIRE
8 THE OPERATOR OF A VEHICLE TRANSPORTING WINE TO POSSESS AN INVOICE
9 ISSUED BY THE HOLDER OF A WINE DISTRIBUTOR'S PERMIT; TO PROVIDE
10 THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING WINE MAY BE
11 REQUIRED TO ENTER INTO A BOND PAYABLE TO THE STATE OF MISSISSIPPI
12 CONDITIONED THAT SUCH DISTRIBUTOR WILL CONDUCT HIS BUSINESS
13 LAWFULLY; TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE
14 RULES AND REGULATIONS GOVERNING THE PURCHASE FOR RESALE,
15 DISTRIBUTION AND SALE OF WINE; TO PROVIDE THAT THE STATE TAX
16 COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR OF WINE; TO
17 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE WINE DISTRIBUTOR'S
18 PERMITS; TO PROVIDE THAT SUCH PERMITS SHALL AUTHORIZE THE HOLDER
19 THEREOF TO PURCHASE WINE FROM ANY MANUFACTURER OR IMPORTER,
20 TRANSPORT WINE INTO THE STATE OF MISSISSIPPI, STORE WINE AT THE
21 PRIVATE BONDED WAREHOUSE OF SUCH PERMITTEE'S CHOICE AND SOLICIT
22 ORDERS FROM AND SELL WINE TO PERMITTEES WHO ARE AUTHORIZED TO SELL
23 WINE AT RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE KEPT FOR
24 THREE YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE ALCOHOLIC
25 BEVERAGE CONTROL DIVISION AT ANY TIME; TO REQUIRE THE HOLDER OF A
26 WINE DISTRIBUTOR'S PERMIT TO DELIVER WINE WITHIN THREE DAYS OF
27 RECEIPT OF THE ORDER; TO MAKE IT UNLAWFUL FOR A WINE DISTRIBUTOR
28 TO HAVE A FINANCIAL INTEREST IN ANY PREMISES UPON WHICH ANY
29 ALCOHOLIC BEVERAGE IS SOLD AT RETAIL; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Section 27-71-5, Mississippi Code of 1972, is
32 amended as follows:

33 27-71-5. (1) Upon each person approved for a permit under
34 the provisions of the Alcoholic Beverage Control Law and
35 amendments thereto, there is levied and imposed for each location
36 for the privilege of engaging and continuing in this state in the
37 business authorized by such permit, an annual privilege license
38 tax in the amount provided in the following schedule:

39 (a) Except as otherwise provided in this subsection
40 (1), manufacturer's permit, Class 1, distiller's and/or
41 rectifier's..... \$4,500.00
42 (b) Manufacturer's permit, Class 2, wine manufacturer
43 \$1,800.00
44 (c) Manufacturer's permit, Class 3, native wine
45 manufacturer per ten thousand (10,000) gallons or part thereof
46 produced..... \$ 10.00
47 (d) Native wine retailer's permit..... \$ 50.00
48 (e) Package retailer's permit, each..... \$ 900.00
49 (f) On-premises retailer's permit, except for clubs and
50 common carriers, each..... \$ 450.00
51 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
52 for each additional Five Thousand Dollars (\$5,000.00), or fraction
53 thereof..... \$ 225.00
54 (g) On-premises retailer's permit for wine of more than
55 four percent (4%) alcohol by volume, but not more than twenty-one
56 percent (21%) alcohol by volume, each..... \$ 225.00
57 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
58 for each additional Five Thousand Dollars (\$5,000.00), or fraction
59 thereof..... \$ 225.00
60 (h) On-premises retailer's permit for clubs.. \$ 225.00
61 On purchases exceeding Five Thousand Dollars (\$5,000.00)
62 and for each additional Five Thousand Dollars (\$5,000.00), or
63 fraction thereof..... \$ 225.00
64 (i) On-premises retailer's permit for common carriers,
65 per car, plane, or other vehicle..... \$ 120.00
66 (j) Solicitor's permit, regardless of any other
67 provision of law, solicitor's permits shall be issued only in the
68 discretion of the commission..... \$ 100.00
69 (k) Filing fee for each application except for an
70 employee identification card..... \$ 25.00
71 (l) Temporary permit, Class 1, each..... \$ 10.00

72	(m) Temporary permit, Class 2, each.....	\$ 50.00
73	On-premises purchases exceeding Five Thousand Dollars	
74	(\$5,000.00) and for each additional Five Thousand Dollars	
75	(\$5,000.00), or fraction thereof.....	\$ 225.00
76	(n) (i) Caterer's permit.....	\$ 600.00
77	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
78	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
79	thereof.....	\$ 250.00
80	(ii) Caterer's permit for holders of on-premises	
81	retailer's permit.....	\$ 150.00
82	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
83	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
84	thereof.....	\$ 250.00
85	(o) Research permit.....	\$ 100.00
86	(p) Filing fee for each application for an employee	
87	identification card.....	\$ 5.00
88	<u>(q) Wine distributor's permit.....</u>	<u>\$1,800.00</u>

89 If a person approved for a manufacturer's permit, Class 1,
90 distiller's permit produces a product with at least fifty-one
91 percent (51%) of the finished product by volume being obtained
92 from alcoholic fermentation of grapes, fruits, berries, honey
93 and/or vegetables grown and produced in Mississippi, and produces
94 all of such product by using not more than one (1) still having a
95 maximum capacity of one hundred fifty (150) liters, the annual
96 privilege license tax for such a permit shall be Ten Dollars
97 (\$10.00) per ten thousand (10,000) gallons or part thereof
98 produced. Bulk, concentrated or fortified ingredients used for
99 blending may be produced outside this state and used in producing
100 such a product.

101 In addition to the filing fee imposed by item (k) of this
102 subsection, a fee to be determined by the State Tax Commission may
103 be charged to defray costs incurred to process applications. Such
104 additional fees shall be paid into the State Treasury to the

105 credit of a special fund account, which is hereby created, and
106 expenditures therefrom shall be made only to defray the costs
107 incurred by the State Tax Commission in processing alcoholic
108 beverage applications. Any unencumbered balance remaining in the
109 special fund account on June 30 of any fiscal year shall lapse
110 into the State General Fund.

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

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

122 (2) There is imposed and shall be collected from each
123 permittee, except a common carrier, solicitor, holder of an
124 employee identification card or a temporary permittee, by the
125 commission, an additional license tax equal to the amounts imposed
126 under subsection (1) of this section for the privilege of doing
127 business within any municipality or county in which the licensee
128 is located. If the licensee is located within a municipality, the
129 commission shall pay the amount of additional license tax to the
130 municipality, and if outside a municipality the commission shall
131 pay the additional license tax to the county in which the licensee
132 is located. Payments by the commission to the respective local
133 government subdivisions shall be made once each month for any
134 collections during the preceding month.

135 (3) When an application for any permit, other than for
136 renewal of a permit, has been rejected by the commission, such
137 decision shall be final. Appeal may be made in the manner

138 provided by Section 67-1-39. Another application from an
139 applicant who has been denied a permit shall not be reconsidered
140 within a twelve-month period.

141 (4) The number of permits issued by the commission shall not
142 be restricted or limited on a population basis; however, the
143 foregoing limitation shall not be construed to preclude the right
144 of the commission to refuse to issue a permit because of the
145 undesirability of the proposed location.

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

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

161 **SECTION 2.** Section 27-71-7, Mississippi Code of 1972, is
162 amended as follows:

163 27-71-7. (1) There is hereby levied and assessed an excise
164 tax upon each case of alcoholic beverages sold by the commission
165 or the holder of a wine distributor's permit to be collected from
166 each retail licensee at the time of sale in accordance with the
167 following schedule:

- 168 (a) Distilled spirits..... \$2.50 per gallon
169 (b) Sparkling wine and champagne..... \$1.00 per gallon
170 (c) Other wines, including native

204 Fund," a special fund which is hereby created in the State
205 Treasury and shall be used by the State Department of Mental
206 Health for the service programs of the department. Any revenue in
207 the "Alcoholism Treatment and Rehabilitation Fund" which is not
208 encumbered at the end of Fiscal Year 1987 shall be deposited to
209 the credit of the "Mental Health Programs Fund."

210 (3) If the tax and markup provided for in subsections (1)
211 and (2) of this section are collected by the holder of a wine
212 distributor's permit, the proceeds of such tax and markup shall be
213 remitted to the State Tax Commission on or before the fifteenth
214 day of the month following the month in which the tax and markup
215 were collected.

216 **SECTION 3.** Section 27-71-11, Mississippi Code of 1972, is
217 amended as follows:

218 27-71-11. The commission shall from time to time by
219 resolution request the State Bond Commission to provide sufficient
220 funds required to maintain an adequate alcoholic beverage
221 inventory. Said funds shall be provided under the provisions of
222 Chapter 557, Laws of 1966.

223 The commission shall add to the cost of all alcoholic
224 beverages it distributes a markup of twenty-seven and one-half
225 percent (27-1/2%), inclusive of the three percent (3%) markup
226 imposed by Section 27-71-7(2).

227 The commission shall sell alcoholic beverages at uniform
228 prices throughout the state.

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

231 27-71-15. Except as otherwise provided in Section 67-9-1 for
232 the transportation of limited amounts of alcoholic beverages for
233 the use of an alcohol processing permittee, if transportation
234 requires passage through a county which has not authorized the
235 sale of alcoholic beverages, such transportation shall be by a
236 sealed vehicle. Such seal shall remain unbroken until the vehicle

237 shall reach the place of business operated by the permittee. The
238 operator of any vehicle transporting alcoholic beverages shall
239 have in his possession an invoice issued by the commission or the
240 holder of a wine distributor's permit at the time of the wholesale
241 sale covering the merchandise transported by the vehicle. The
242 commission is authorized to issue regulations controlling the
243 transportation of alcoholic beverages.

244 When the restrictions imposed by this section and by the
245 regulation of the commission have not been violated, the person
246 transporting alcoholic beverages through a county wherein the sale
247 of alcoholic beverages is prohibited shall not be guilty of
248 unlawful possession and such merchandise shall be immune from
249 seizure.

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

252 27-71-21. Before any person shall engage in the business of
253 manufacturing or retailing of alcoholic beverages or distributing
254 wine, he may be required to enter into a bond payable to the State
255 of Mississippi, conditioned that he will conduct said business
256 strictly in accordance with the laws of the State of Mississippi,
257 and that he will comply with the rules and regulations prescribed
258 by the commission, and pay all taxes due the State of Mississippi.
259 The amount of a bond required of a manufacturer or a wine
260 distributor, not including a producer of native wine, shall not
261 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount
262 required of a retailer shall be Five Thousand Dollars (\$5,000.00).
263 Provided, however, any retailer whose check for purchase of
264 merchandise or payment of taxes shall be dishonored may be
265 required by the commission to post additional bond not to exceed
266 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
267 surety company authorized to do business in the State of
268 Mississippi and shall be approved by the commission. The
269 commission shall be authorized to institute suit in the proper

270 court for any violation of the condition of said bonds. The
271 amount of the bond required of a producer of native wine shall be
272 Five Thousand Dollars (\$5,000.00).

273 As an alternative to entering into a bond as required by this
274 section, any person who shall engage in the business of
275 manufacturing or retailing alcoholic beverages or distributing
276 wine may, subject to the same conditions of conduct required for
277 bonds, deposit with the State Treasurer the equivalent amount of
278 the bond required for that particular person in cash or
279 securities. The only securities allowable for this purpose are
280 those which may legally be purchased by a bank or for trust funds,
281 having a market value not less than that of the required bond.
282 The commission shall file notice with the Treasurer for any
283 violation of the conditions of the cash or security deposit.

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

286 67-1-5. For the purposes of this chapter and unless
287 otherwise required by the context:

288 (a) "Alcoholic beverage" means any alcoholic liquid,
289 including wines of more than five percent (5%) of alcohol by
290 weight, capable of being consumed as a beverage by a human being,
291 but shall not include wine containing five percent (5%) or less of
292 alcohol by weight and shall not include beer containing not more
293 than five percent (5%) of alcohol by weight, as provided for in
294 Section 67-3-5, Mississippi Code of 1972, but shall include native
295 wines. The words "alcoholic beverage" shall not include ethyl
296 alcohol manufactured or distilled solely for fuel purposes.

297 (b) "Alcohol" means the product of distillation of any
298 fermented liquid, whatever the origin thereof, and includes
299 synthetic ethyl alcohol, but does not include denatured alcohol or
300 wood alcohol.

301 (c) "Distilled spirits" means any beverage containing
302 more than four percent (4%) of alcohol by weight produced by

303 distillation of fermented grain, starch, molasses or sugar,
304 including dilutions and mixtures of these beverages.

305 (d) "Wine" or "vinous liquor" means any product
306 obtained from the alcoholic fermentation of the juice of sound,
307 ripe grapes, fruits or berries and made in accordance with the
308 revenue laws of the United States.

309 (e) "Person" means and includes any individual,
310 partnership, corporation, association or other legal entity
311 whatsoever.

312 (f) "Manufacturer" means any person engaged in
313 manufacturing, distilling, rectifying, blending or bottling any
314 alcoholic beverage.

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

319 (h) "Retailer" means any person who sells, distributes,
320 or offers for sale or distribution, any alcoholic beverage for use
321 or consumption by the purchaser and not for resale.

322 (i) "Commission" means the State Tax Commission of the
323 State of Mississippi, which shall create a division in its
324 organization to be known as the Alcoholic Beverage Control
325 Division. Any reference to the commission hereafter means the
326 powers and duties of the State Tax Commission with reference to
327 supervision of the Alcoholic Beverage Control Division.

328 (j) "Division" means the Alcoholic Beverage Control
329 Division of the State Tax Commission.

330 (k) "Municipality" means any incorporated city or town
331 of this state.

332 (l) "Hotel" means an establishment within a
333 municipality, or within a qualified resort area approved as such
334 by the commission, where, in consideration of payment, food and
335 lodging are habitually furnished to travelers and wherein are

336 located at least twenty (20) adequately furnished and completely
337 separate sleeping rooms with adequate facilities that persons
338 usually apply for and receive as overnight accommodations. Hotels
339 in towns or cities of more than twenty-five thousand (25,000)
340 population are similarly defined except that they must have fifty
341 (50) or more sleeping rooms. Any such establishment described in
342 this paragraph with less than fifty (50) beds shall operate one or
343 more regular dining rooms designed to be constantly frequented by
344 customers each day. When used in this chapter, the word "hotel"
345 shall also be construed to include any establishment that meets
346 the definition of "bed and breakfast inn" as provided in this
347 section.

348 (m) "Restaurant" means a place which is regularly and
349 in a bona fide manner used and kept open for the serving of meals
350 to guests for compensation, which has suitable seating facilities
351 for guests, and which has suitable kitchen facilities connected
352 therewith for cooking an assortment of foods and meals commonly
353 ordered at various hours of the day; the service of such food as
354 sandwiches and salads only shall not be deemed in compliance with
355 this requirement. No place shall qualify as a restaurant under
356 this chapter unless twenty-five percent (25%) or more of the
357 revenue derived from such place shall be from the preparation,
358 cooking and serving of meals and not from the sale of beverages,
359 or unless the value of food given to and consumed by customers is
360 equal to twenty-five percent (25%) or more of total revenue.

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

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

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

367 (iii) Maintained by its members through the
368 payment of annual dues;

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

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

377 (vi) No member, officer, agent or employee of
378 which is paid, or directly or indirectly receives, in the form of
379 a salary or other compensation any profit from the distribution or
380 sale of alcoholic beverages to the club or to members or guests of
381 the club beyond such salary or compensation as may be fixed and
382 voted at a proper meeting by the board of directors or other
383 governing body out of the general revenues of the club.

384 The commission may, in its discretion, waive the five-year
385 provision of this paragraph. In order to qualify under this
386 paragraph, a club must file with the commission, at the time of
387 its application for a license under this chapter, two (2) copies
388 of a list of the names and residences of its members and similarly
389 file, within ten (10) days after the election of any additional
390 member, his name and address. Each club applying for a license
391 shall also file with the commission at the time of the application
392 a copy of its articles of association, charter of incorporation,
393 bylaws or other instruments governing the business and affairs
394 thereof.

395 (o) "Qualified resort area" means any area or locality
396 outside of the limits of incorporated municipalities in this state
397 commonly known and accepted as a place which regularly and
398 customarily attracts tourists, vacationists and other transients
399 because of its historical, scenic or recreational facilities or
400 attractions, or because of other attributes which regularly and
401 customarily appeal to and attract tourists, vacationists and other

402 transients in substantial numbers; however, no area or locality
403 shall so qualify as a resort area until it has been duly and
404 properly approved as such by the commission.

405 (i) The commission may approve an area or locality
406 outside of the limits of an incorporated municipality that is in
407 the process of being developed as a qualified resort area if such
408 area or locality, when developed, can reasonably be expected to
409 meet the requisites of the definition of the term "qualified
410 resort area." In such a case, the status of qualified resort area
411 shall not take effect until completion of the development.

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

420 (iii) The term includes:

421 1. The clubhouses associated with the state
422 park golf courses at the Lefleur's Bluff State Park, the John Kyle
423 State Park, the Percy Quin State Park and the Hugh White State
424 Park; and

425 2. The clubhouse and associated golf course
426 where the golf course is adjacent to one or more planned
427 residential developments and the golf course and all such
428 developments collectively include at least seven hundred fifty
429 (750) acres and at least four hundred (400) residential units.

430 The status of these clubhouses and golf courses as qualified
431 resort areas does not require any declaration of same by the
432 commission.

433 (p) "Native wine" means any product, produced in
434 Mississippi for sale, having an alcohol content not to exceed

435 twenty-one percent (21%) by weight and made in accordance with
436 revenue laws of the United States, which shall be obtained
437 primarily from the alcoholic fermentation of the juice of ripe
438 grapes, fruits, berries or vegetables grown and produced in
439 Mississippi; provided that bulk, concentrated or fortified wines
440 used for blending may be produced without this state and used in
441 producing native wines. The commission shall adopt and promulgate
442 rules and regulations to permit a producer to import such bulk
443 and/or fortified wines into this state for use in blending with
444 native wines without payment of any excise tax that would
445 otherwise accrue thereon.

446 (q) "Native winery" means any place or establishment
447 within the State of Mississippi where native wine is produced in
448 whole or in part for sale.

449 (r) "Bed and breakfast inn" means an establishment
450 within a municipality where in consideration of payment, breakfast
451 and lodging are habitually furnished to travelers and wherein are
452 located not less than eight (8) and not more than nineteen (19)
453 adequately furnished and completely separate sleeping rooms with
454 adequate facilities, that persons usually apply for and receive as
455 overnight accommodations; however, such restriction on the minimum
456 number of sleeping rooms shall not apply to establishments on the
457 National Register of Historic Places. No place shall qualify as a
458 bed and breakfast inn under this chapter unless on the date of the
459 initial application for a license under this chapter more than
460 fifty percent (50%) of the sleeping rooms are located in a
461 structure formerly used as a residence.

462 (s) "Wine distributor" means a person engaged in
463 purchasing, transporting and storing wine or vinous liquor within
464 the State of Mississippi and selling at wholesale wine or vinous
465 liquor to permittees who are authorized to sell wine at retail.

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

468 67-1-9. (1) It shall be unlawful for any person to
469 manufacture, distill, brew, sell, possess, import into this state,
470 export from the state, transport, distribute, warehouse, store,
471 solicit, take order for, bottle, rectify, blend, treat, mix or
472 process any alcoholic beverage except as authorized in this
473 chapter. However, nothing contained herein shall prevent
474 importers, wineries and distillers of alcoholic beverages from
475 storing such alcoholic beverages in private bonded warehouses
476 located within the State of Mississippi for the ultimate use and
477 benefit of the State Tax Commission as provided in Section
478 67-1-41, and nothing contained herein shall prohibit the holder of
479 a wine distributor's permit from storing wine in private bonded
480 warehouses located in the State of Mississippi for resale to
481 authorized permittees. The commission is hereby authorized to
482 promulgate rules and regulations for the establishment of such
483 private bonded warehouses and for the control of alcoholic
484 beverages stored in such warehouses. Additionally, nothing herein
485 contained shall prevent any duly licensed practicing physician or
486 dentist from possessing or using alcoholic liquor in the strict
487 practice of his profession, or prevent any hospital or other
488 institution caring for sick and diseased persons, from possessing
489 and using alcoholic liquor for the treatment of bona fide patients
490 of such hospital or other institution. Any drugstore employing a
491 licensed pharmacist may possess and use alcoholic liquors in the
492 combination of prescriptions of duly licensed physicians. The
493 possession and dispensation of wine by an authorized
494 representative of any church for the purpose of conducting any
495 bona fide rite or religious ceremony conducted by such church
496 shall not be prohibited by this chapter.

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

499 (a) By a fine of not less than One Hundred Dollars
500 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by

501 imprisonment in the county jail not less than one (1) week nor
502 more than three (3) months, or both, for the first conviction
503 under this section.

504 (b) By a fine of not less than One Hundred Dollars
505 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
506 imprisonment in the county jail not less than sixty (60) days, nor
507 more than six (6) months, or both fine and imprisonment, for the
508 second conviction for violating this section.

509 (c) By a fine of not less than One Hundred Dollars
510 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
511 imprisonment in the State Penitentiary not less than one (1) year,
512 nor more than five (5) years, or both fine and imprisonment, for
513 conviction the third time under this section for the violation
514 thereof after having been twice convicted of its violation.

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

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

518 67-1-37. The State Tax Commission, under its duties and
519 powers with respect to the Alcoholic Beverage Control Division
520 therein, shall have the following powers, functions and duties:

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

525 (b) To revoke, suspend or cancel, for violation of or
526 noncompliance with the provisions of this chapter, or the law
527 governing the production and sale of native wines, or any lawful
528 rules and regulations of the commission issued hereunder, or for
529 other sufficient cause, any permit issued by it under the
530 provisions of this chapter; however, no such permit shall be
531 revoked, suspended or cancelled except after a hearing of which
532 the permit holder shall have been given reasonable notice and an
533 opportunity to be heard. The commission shall be authorized to

534 suspend the permit of any permit holder for being out of
535 compliance with an order for support, as defined in Section
536 93-11-153. The procedure for suspension of a permit for being out
537 of compliance with an order for support, and the procedure for the
538 reissuance or reinstatement of a permit suspended for that
539 purpose, and the payment of any fees for the reissuance or
540 reinstatement of a permit suspended for that purpose, shall be
541 governed by Section 93-11-157 or Section 93-11-163, as the case
542 may be. If there is any conflict between any provision of Section
543 93-11-157 or Section 93-11-163 and any provision of this chapter,
544 the provisions of Section 93-11-157 or Section 93-11-163, as the
545 case may be, shall control.

546 (c) To prescribe forms of permits and applications for
547 permits and of all reports which it deems necessary in
548 administering this chapter.

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

553 (e) To issue rules regulating the advertising of
554 alcoholic beverages in the state in any class of media and
555 permitting advertising of the retail price of alcoholic beverages.

556 (f) To issue reasonable rules and regulations, not
557 inconsistent with the federal laws or regulations, requiring
558 informative labeling of all alcoholic beverages offered for sale
559 within this state and providing for the standards of fill and
560 shapes of retail containers of alcoholic beverages; however, such
561 containers shall not contain less than fifty (50) milliliters by
562 liquid measure.

563 (g) Subject to the provisions of * * * Section
564 67-1-51(3), to issue rules and regulations governing the issuance
565 of retail permits for premises located near or around schools,
566 colleges, universities, churches and other public institutions,

567 and specifying the distances therefrom within which no such permit
568 shall be issued. The Alcoholic Beverage Control Division shall
569 not allow the sale or consumption of alcoholic beverages in or on
570 the campus of any public school or college, and no alcoholic
571 beverage shall be for sale or consumed at any public athletic
572 event at any grammar or high school or any college.

573 (h) To adopt and promulgate, repeal and amend, such
574 rules, regulations, standards, requirements and orders, not
575 inconsistent with this chapter or any law of this state or of the
576 United States, as it deems necessary to control the manufacture,
577 importation, transportation, distribution and sale of alcoholic
578 liquor, whether intended for beverage or nonbeverage use in a
579 manner not inconsistent with the provisions of this chapter or any
580 other statute, including the native wine laws.

581 (i) To call upon other administrative departments of
582 the state, county and municipal governments, county and city
583 police departments and upon prosecuting officers for such
584 information and assistance as it may deem necessary in the
585 performance of its duties.

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

592 (k) To inspect, or cause to be inspected, any premises
593 where alcoholic liquors intended for sale are manufactured,
594 stored, distributed or sold, and to examine or cause to be
595 examined all books and records pertaining to the business
596 conducted therein.

597 (l) In the conduct of any hearing authorized to be held
598 by the commission, to hear testimony and take proof material for
599 its information in the discharge of its duties under this chapter;

600 to issue subpoenas, which shall be effective in any part of this
601 state, requiring the attendance of witnesses and the production of
602 books and records; to administer or cause to be administered
603 oaths; and to examine or cause to be examined any witness under
604 oath. Any court of record, or any judge thereof, may by order
605 duly entered require the attendance of witnesses and the
606 production of relevant books subpoenaed by the commission, and
607 such court or judge may compel obedience to its or his order by
608 proceedings for contempt.

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

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

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

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

629 (q) To adopt and promulgate rules and regulations for
630 suspension or revocation of identification cards of employees of
631 permittees for violations of the alcoholic beverage control laws,
632 rules or regulations.

633 (r) To enforce the provisions made unlawful by Sections
634 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

635 (s) To adopt and promulgate rules and regulations
636 governing the purchase for resale, distribution and sale of wine
637 or vinous liquor.

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

640 67-1-37. The State Tax Commission, under its duties and
641 powers with respect to the Alcoholic Beverage Control Division
642 therein, shall have the following powers, functions and duties:

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

647 (b) To revoke, suspend or cancel, for violation of or
648 noncompliance with the provisions of this chapter, or the law
649 governing the production and sale of native wines, or any lawful
650 rules and regulations of the commission issued hereunder, or for
651 other sufficient cause, any permit issued by it under the
652 provisions of this chapter; however, no such permit shall be
653 revoked, suspended or cancelled except after a hearing of which
654 the permit holder shall have been given reasonable notice and an
655 opportunity to be heard. The commission shall be authorized to
656 suspend the permit of any permit holder for being out of
657 compliance with an order for support, as defined in Section
658 93-11-153. The procedure for suspension of a permit for being out
659 of compliance with an order for support, and the procedure for the
660 reissuance or reinstatement of a permit suspended for that
661 purpose, and the payment of any fees for the reissuance or
662 reinstatement of a permit suspended for that purpose, shall be
663 governed by Section 93-11-157 or 93-11-163, as the case may be.
664 If there is any conflict between any provision of Section
665 93-11-157 or 93-11-163 and any provision of this chapter, the

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

668 (c) To prescribe forms of permits and applications for
669 permits and of all reports which it deems necessary in
670 administering this chapter.

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

675 (e) To issue rules regulating the advertising of
676 alcoholic beverages in the state in any class of media and
677 permitting advertising of the retail price of alcoholic beverages.

678 (f) To issue reasonable rules and regulations, not
679 inconsistent with the federal laws or regulations, requiring
680 informative labeling of all alcoholic beverages offered for sale
681 within this state and providing for the standards of fill and
682 shapes of retail containers of alcoholic beverages; however, such
683 containers shall not contain less than fifty (50) milliliters by
684 liquid measure.

685 (g) Subject to the provisions of * * * Section
686 67-1-51(3), to issue rules and regulations governing the issuance
687 of retail permits for premises located near or around schools,
688 colleges, universities, churches and other public institutions,
689 and specifying the distances therefrom within which no such permit
690 shall be issued. The Alcoholic Beverage Control Division shall
691 not allow the sale or consumption of alcoholic beverages in or on
692 the campus of any public school or college, and no alcoholic
693 beverage shall be for sale or consumed at any public athletic
694 event at any grammar or high school or any college.

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

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

703 (i) To call upon other administrative departments of
704 the state, county and municipal governments, county and city
705 police departments and upon prosecuting officers for such
706 information and assistance as it may deem necessary in the
707 performance of its duties.

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

714 (k) To inspect, or cause to be inspected, any premises
715 where alcoholic liquors intended for sale are manufactured,
716 stored, distributed or sold, and to examine or cause to be
717 examined all books and records pertaining to the business
718 conducted therein.

719 (l) In the conduct of any hearing authorized to be held
720 by the commission, to hear testimony and take proof material for
721 its information in the discharge of its duties under this chapter;
722 to issue subpoenas, which shall be effective in any part of this
723 state, requiring the attendance of witnesses and the production of
724 books and records; to administer or cause to be administered
725 oaths; and to examine or cause to be examined any witness under
726 oath. Any court of record, or any judge thereof, may by order
727 duly entered require the attendance of witnesses and the
728 production of relevant books subpoenaed by the commission, and
729 such court or judge may compel obedience to its or his order by
730 proceedings for contempt.

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

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

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

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

751 (q) To adopt and promulgate rules and regulations for
752 suspension or revocation of identification cards of employees of
753 permittees for violations of the alcoholic beverage control laws,
754 rules or regulations.

755 (r) To adopt and promulgate rules and regulations
756 governing the purchase for resale, distribution and sale of wine
757 or vinous liquor.

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

760 67-1-41. (1) The State Tax Commission is hereby created a
761 wholesale distributor and seller of alcoholic beverages, not
762 including malt liquors and wine or vinous liquor, within the State
763 of Mississippi. It is granted the sole right to import and sell

764 such intoxicating liquors at wholesale within the state, and no
765 person who is granted the right to sell, distribute or receive
766 such liquors at retail shall purchase any such intoxicating
767 liquors from any source other than the commission except as
768 authorized in subsections (4) and (9) of this section, provided
769 that retailers and consumers may purchase native wines directly
770 from the producer. The commission may establish warehouses,
771 purchase intoxicating liquors in such quantities and from such
772 sources as it may deem desirable and sell the same to authorized
773 permittees within the state including, at the discretion of the
774 commission, any retail distributors operating within any military
775 post or qualified resort areas within the boundaries of the state,
776 keeping a correct and accurate record of all such transactions and
777 exercising such control over the distribution of alcoholic
778 beverages as seem right and proper in keeping with the provisions
779 or purposes of this chapter.

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

784 The commission is hereby authorized to use and to promulgate
785 rules for the affixing of identification stamps to each container
786 of alcoholic liquor.

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

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

797 (4) The commission may promulgate rules and regulations
798 which authorize on-premises retailers to purchase limited amounts
799 of alcoholic beverages from package retailers and for package
800 retailers to purchase limited amounts of alcoholic beverages from
801 other package retailers. The commission shall develop and provide
802 forms to be completed by the on-premises retailers and the package
803 retailers verifying the transaction. The completed forms shall be
804 forwarded to the commission within a period of time prescribed by
805 the commission.

806 (5) The commission may promulgate rules which authorize the
807 holder of a package retailer's permit to permit individual retail
808 purchasers of packages of alcoholic beverages to return, for
809 exchange, credit or refund, limited amounts of original sealed and
810 unopened packages of alcoholic beverages purchased by such
811 individual from the package retailer.

812 (6) The commission shall maintain all forms to be completed
813 by applicants necessary for licensure by the commission at all
814 district offices of the commission.

815 (7) The commission may promulgate rules which authorize the
816 manufacturer of an alcoholic beverage or wine to import, transport
817 and furnish or give a sample of alcoholic beverages or wines to
818 the holders of package retailer's permits, on-premises retailer's
819 permits, native wine retailer's permits and temporary retailer's
820 permits who have not previously purchased the brand of that
821 manufacturer from the commission. For each holder of the
822 designated permits, the manufacturer may furnish not more than
823 five hundred (500) milliliters of any brand of alcoholic beverage
824 and not more than three (3) liters of any brand of wine.

825 (8) The commission may promulgate rules disallowing open
826 product sampling of alcoholic beverages or wines by the holders of
827 package retailer's permits and permitting open product sampling of
828 alcoholic beverages by the holders of on-premises retailer's
829 permits. Permitted sample products shall be plainly identified

830 "sample" and the actual sampling must occur in the presence of the
831 manufacturer's representatives during the legal operating hours of
832 on-premises retailers.

833 (9) The commission may promulgate rules and regulations that
834 authorize the holder of a research permit to import and purchase
835 limited amounts of alcoholic beverages from importers, wineries
836 and distillers of alcoholic beverages or from the commission. The
837 commission shall develop and provide forms to be completed by the
838 research permittee verifying each transaction. The completed
839 forms shall be forwarded to the commission within a period of time
840 prescribed by the commission. The records and inventory of
841 alcoholic beverages shall be open to inspection at any time by the
842 Director of the Alcoholic Beverage Control Division or any duly
843 authorized agent.

844 **SECTION 10.** Section 67-1-45, Mississippi Code of 1972, is
845 amended as follows:

846 67-1-45. No manufacturer, rectifier, or distiller of
847 intoxicating liquor shall sell or attempt to sell any such
848 intoxicating liquor, except malt liquor and wine or vinous liquor,
849 within the State of Mississippi, except to the commission, or to
850 the holder of a research permit as provided in Section 67-1-41.
851 However, a producer of native wine may sell native wines to the
852 commission, authorized retail distributor, or directly to
853 consumers. No manufacturer or other person shall sell or attempt
854 to sell any wine or vinous liquor within the State of Mississippi
855 except to the holder of a wine distributor's permit as provided in
856 Section 67-1-41.

857 Any violation of this section by any manufacturer, rectifier,
858 or distiller shall be punished by a fine of not less than Five
859 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
860 (\$2,000.00), to which may be added imprisonment in the county jail
861 not to exceed six (6) months.

862 **SECTION 11.** Section 67-1-51, Mississippi Code of 1972, is
863 amended as follows:

864 67-1-51. (1) Permits which may be issued by the commission
865 shall be as follows:

866 (a) **Manufacturer's permit.** A manufacturer's permit
867 shall permit the manufacture, importation in bulk, bottling and
868 storage of alcoholic liquor and its distribution and sale to
869 manufacturers holding permits under this chapter in this state and
870 to persons outside the state who are authorized by law to purchase
871 the same, and to sell exclusively to the commission.

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

873 Class 1. Distiller's and/or rectifier's permit, which shall
874 authorize the holder thereof to operate a distillery for the
875 production of distilled spirits by distillation or redistillation
876 and/or to operate a rectifying plant for the purifying, refining,
877 mixing, blending, flavoring or reducing in proof of distilled
878 spirits and alcohol.

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

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

885 (b) **Package retailer's permit.** Except as otherwise
886 provided in this paragraph, a package retailer's permit shall
887 authorize the holder thereof to operate a store exclusively for
888 the sale at retail in original sealed and unopened packages of
889 alcoholic beverages, including native wines, not to be consumed on
890 the premises where sold. Alcoholic beverages shall not be sold by
891 any retailer in any package or container containing less than
892 fifty (50) milliliters by liquid measure. In addition to the sale
893 at retail of packages of alcoholic beverages, the holder of a
894 package retailer's permit is authorized to sell at retail

895 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
896 other beverages commonly used to mix with alcoholic beverages.
897 Nonalcoholic beverages sold by the holder of a package retailer's
898 permit shall not be consumed on the premises where sold.

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

913 (d) **Solicitor's permit.** A solicitor's permit shall
914 authorize the holder thereof to act as salesman for a manufacturer
915 or wholesaler holding a proper permit, to solicit on behalf of his
916 employer orders for alcoholic beverages, and to otherwise promote
917 his employer's products in a legitimate manner. Such a permit
918 shall authorize the representation of and employment by one (1)
919 principal only. However, the permittee may also, in the
920 discretion of the commission, be issued additional permits to
921 represent other principals. No such permittee shall buy or sell
922 alcoholic beverages for his own account, and no such beverage
923 shall be brought into this state in pursuance of the exercise of
924 such permit otherwise than through a permit issued to a wholesaler
925 or manufacturer in the state.

926 (e) **Native wine retailer's permit.** A native wine
927 retailer's permit shall be issued only to a holder of a Class 3

928 manufacturer's permit, and shall authorize the holder thereof to
929 make retail sales of native wines to consumers for on-premises
930 consumption or to consumers in originally sealed and unopened
931 containers at an establishment located on the premises of or in
932 the immediate vicinity of a native winery.

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

937 Temporary retailer's permits shall be of the following
938 classes:

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

959 Class 2. A temporary permit, not to exceed seventy (70)
960 days, may be issued to prospective permittees seeking to transfer

961 a permit authorized in either paragraph (b) or (c) of this
962 section. A Class 2 permit may be issued only to applicants
963 demonstrating to the commission, by affidavit, that they meet the
964 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
965 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
966 commission, following a preliminary review of the affidavit and
967 the requirements of the applicable statutes and regulations, may
968 issue the permit.

969 Class 2 temporary permittees must purchase their alcoholic
970 beverages directly from the commission or, with approval of the
971 commission, purchase the remaining stock of the previous
972 permittee. If the proposed applicant of a Class 1 or Class 2
973 temporary permit falsifies information contained in the
974 application or affidavit, the applicant shall never again be
975 eligible for a retail alcohol beverage permit and shall be subject
976 to prosecution for perjury.

977 (g) **Caterer's permit.** A caterer's permit shall permit
978 the purchase of alcoholic beverages by a person engaging in
979 business as a caterer and the resale of alcoholic beverages by
980 such person in conjunction with such catering business. No person
981 shall qualify as a caterer unless forty percent (40%) or more of
982 the revenue derived from such catering business shall be from the
983 serving of prepared food and not from the sale of alcoholic
984 beverages and unless such person has obtained a permit for such
985 business from the Department of Health. A caterer's permit shall
986 not authorize the sale of alcoholic beverages on the premises of
987 the person engaging in business as a caterer; however, the holder
988 of an on-premises retailer's permit may hold a caterer's permit.
989 All sales of alcoholic beverages by holders of a caterer's permit
990 shall be made at the location being catered by the caterer, and
991 such sales may be made only for consumption at the catered
992 location. Such sales shall be made pursuant to any other
993 conditions and restrictions which apply to sales made by

994 on-premises retail permittees. The holder of a caterer's permit
995 or his employees shall remain at the catered location as long as
996 alcoholic beverages are being sold pursuant to the permit issued
997 under this paragraph (g), and the permittee and employees at such
998 location shall each have personal identification cards issued by
999 the Alcoholic Beverage Control Division of the commission. No
1000 unsold alcoholic beverages may be left at the catered location by
1001 the permittee upon the conclusion of his business at that
1002 location. Appropriate law enforcement officers and Alcoholic
1003 Beverage Control Division personnel may enter a catered location
1004 on private property in order to enforce laws governing the sale or
1005 serving of alcoholic beverages.

1006 (h) **Research Permit.** A research permit shall authorize
1007 the holder thereof to operate a research facility for the
1008 professional research of alcoholic beverages. Such permit shall
1009 authorize the holder of the permit to import and purchase limited
1010 amounts of alcoholic beverages from the commission or from
1011 importers, wineries and distillers of alcoholic beverages for
1012 professional research.

1013 (i) **Alcohol processing permit.** An alcohol processing
1014 permit shall authorize the holder thereof to purchase, transport
1015 and possess alcoholic beverages for the exclusive use in cooking,
1016 processing or manufacturing products which contain alcoholic
1017 beverages as an integral ingredient. An alcohol processing permit
1018 shall not authorize the sale of alcoholic beverages on the
1019 premises of the person engaging in the business of cooking,
1020 processing or manufacturing products which contain alcoholic
1021 beverages. The amounts of alcoholic beverages allowed under an
1022 alcohol processing permit shall be set by the commission.

1023 (j) **Wine distributor's permit.** A wine distributor's
1024 permit shall authorize the holder thereof to purchase for resale,
1025 to store and to distribute to authorized permittees, wine or
1026 vinous liquor. Such permit shall entitle the holder thereof to

1027 purchase wine or vinous liquor from any manufacturer or importer
1028 for the purpose of resale in this state to permittees that are
1029 authorized to sell wine or vinous liquor at retail. The holder of
1030 a wine distributor's permit may transport wine or vinous liquor
1031 into the State of Mississippi and store such wine or vinous liquor
1032 in a private bonded warehouse of such permittee's choice for sale
1033 to permittees who are authorized to sell wine or vinous liquor at
1034 retail. The holder of a wine distributor's permit may solicit
1035 orders for wine or vinous liquor from any permittee that is
1036 authorized to sell wine or vinous liquor at retail. Records of
1037 such orders shall be kept and maintained for a period of three (3)
1038 years after the order is taken and shall be subject to inspection
1039 by the division at any time without prior notice. The holder of a
1040 wine distributor's permit shall deliver wine or vinous liquor to
1041 an authorized permittee within three (3) days of receipt of the
1042 order.

1043 (2) Except as otherwise provided in subsection (4) of this
1044 section, retail permittees may hold more than one (1) retail
1045 permit, at the discretion of the commission.

1046 (3) Except as otherwise provided in this subsection, no
1047 authority shall be granted to any person to manufacture, sell or
1048 store for sale any intoxicating liquor as specified in this
1049 chapter within four hundred (400) feet of any church, school,
1050 kindergarten or funeral home. However, within an area zoned
1051 commercial or business, such minimum distance shall be not less
1052 than one hundred (100) feet.

1053 A church or funeral home may waive the distance restrictions
1054 imposed in this subsection in favor of allowing issuance by the
1055 commission of a permit, pursuant to subsection (1) of this
1056 section, to authorize activity relating to the manufacturing, sale
1057 or storage of alcoholic beverages which would otherwise be
1058 prohibited under the minimum distance criterion. Such waiver
1059 shall be in written form from the owner, the governing body, or

1060 the appropriate officer of the church or funeral home having the
1061 authority to execute such a waiver, and the waiver shall be filed
1062 with and verified by the commission before becoming effective.

1063 The distance restrictions imposed in this subsection shall
1064 not apply to the sale or storage of alcoholic beverages at a bed
1065 and breakfast inn listed in the National Register of Historic
1066 Places.

1067 (4) No person, either individually or as a member of a firm,
1068 partnership or association, or as a stockholder, officer or
1069 director in a corporation, shall own or control any interest in
1070 more than one (1) package retailer's permit, nor shall such
1071 person's spouse, if living in the same household of such person,
1072 any relative of such person, if living in the same household of
1073 such person, or any other person living in the same household with
1074 such person own any interest in any other package retailer's
1075 permit.

1076 **SECTION 12.** Section 67-1-77, Mississippi Code of 1972, is
1077 amended as follows:

1078 67-1-77. (1) It shall be unlawful for the holder of a
1079 manufacturer's or wholesaler's permit, or anyone connected with
1080 the business of such holder, or for any other distiller, wine
1081 manufacturer, wine distributor, brewer, rectifier, blender, or
1082 bottler, to have any financial interest in any premises upon which
1083 any alcoholic beverage is sold at retail by any permittee, or in
1084 the business conducted by such permittee; provided, however, the
1085 holder of a manufacturer's or wholesaler's permit may contract for
1086 the service of a representative in the area of governmental
1087 affairs on a part-time basis with a holder of an on-premises
1088 permit.

1089 (2) It shall also be unlawful for any such person, or anyone
1090 connected with his, its, or their business to lend any money or
1091 make any gift or offer any gratuity, to any retail permittee,
1092 except as authorized by regulations of the commission, to the

1093 holder of any retail permit issued under the provisions of this
1094 chapter. Except as above provided, no retail permittee shall
1095 accept, receive, or make use of any money or gift furnished by any
1096 such person, or become indebted to such person except for the
1097 purchase of alcoholic beverages.

1098 (3) The commission shall not prohibit the furnishing of
1099 advertising specialties, printed materials, or other things having
1100 nominal value to a retail permittee. This section shall not be
1101 construed to prohibit the possession by any person of advertising
1102 specialties, printed materials, or other things having nominal
1103 value furnished by a retail permittee.

1104 (4) Any person violating the provisions of this section
1105 shall, upon conviction, be punished by a fine of not more than
1106 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1107 than two (2) years, or by both such fine and imprisonment, in the
1108 discretion of the court.

1109 **SECTION 13.** This act shall take effect and be in force from
1110 and after July 1, 2005.