

By: Representative Mims (By Request)

To: Ways and Means

HOUSE BILL NO. 471

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE HOLDERS OF ALCOHOLIC BEVERAGE PACKAGE RETAILER'S PERMITS
3 TO SELL PACKAGED CHEESE, PACKAGED CRACKERS, CLOTH AND PAPER
4 NAPKINS, DECORATIVE CORKS AND WINE GLASS CHARMS; AND FOR RELATED
5 PURPOSES.

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

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

9 67-1-51. (1) Permits which may be issued by the commission
10 shall be as follows:

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

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

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

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

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

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

46 (c) **On-premises retailer's permit.** An on-premises
47 retailer's permit shall authorize the sale of alcoholic beverages,
48 including native wines, for consumption on the licensed premises
49 only. Such a permit shall issue only to qualified hotels,
50 restaurants and clubs, and to common carriers with adequate
51 facilities for serving passengers. In resort areas, whether
52 inside or outside of a municipality, the commission may, in its
53 discretion, issue on-premises retailer's permits to such
54 establishments as it deems proper. An on-premises retailer's
55 permit when issued to a common carrier shall authorize the sale
56 and serving of alcoholic beverages aboard any licensed vehicle
57 while moving through any county of the state; however, the sale of
58 such alcoholic beverages shall not be permitted while such vehicle
59 is stopped in a county that has not legalized such sales.

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

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

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

84 Temporary retailer's permits shall be of the following
85 classes:

86 Class 1. A temporary one-day permit may be issued to bona
87 fide nonprofit civic or charitable organizations authorizing the
88 sale of alcoholic beverages, including native wine, for
89 consumption on the premises described in the temporary permit
90 only. Class 1 permits may be issued only to applicants
91 demonstrating to the commission, by affidavit submitted ten (10)
92 days prior to the proposed date or such other time as the

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

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

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

124 (g) **Caterer's permit.** A caterer's permit shall permit
125 the purchase of alcoholic beverages by a person engaging in

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

153 (h) **Research Permit.** A research permit shall authorize
154 the holder thereof to operate a research facility for the
155 professional research of alcoholic beverages. Such permit shall
156 authorize the holder of the permit to import and purchase limited
157 amounts of alcoholic beverages from the commission or from

158 importers, wineries and distillers of alcoholic beverages for
159 professional research.

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

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

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

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

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

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

203 **SECTION 2.** This act shall take effect and be in force from
204 and after July 1, 2005.