

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2242

1 AN ACT TO REQUIRE THE STATE TAX COMMISSION TO ENTER INTO
2 CONTRACTS WITH PRIVATE ENTITIES FOR THE FRANCHISE OF, AND THE
3 FRANCHISE 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 25-9-155, 27-71-5, 27-71-7, 27-71-9, 27-71-15,
41 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-43, 67-1-45,
42 67-1-51, 67-1-77 AND 67-1-79, MISSISSIPPI CODE OF 1972, TO
43 AUTHORIZE THE DISTRIBUTION OF ALCOHOLIC BEVERAGES BY PRIVATE
44 ENTITIES; TO PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR A
45 WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE FOR
46 AN EXCISE TAX ON ALCOHOLIC BEVERAGES SOLD BY THE HOLDER OF A
47 WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT AND THE
48 COLLECTION OF SUCH TAX; TO REQUIRE THE OPERATOR OF A VEHICLE
49 TRANSPORTING ALCOHOLIC BEVERAGES TO POSSESS AN INVOICE ISSUED BY
50 THE HOLDER OF A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT;
51 TO PROVIDE THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING
52 ALCOHOLIC BEVERAGES AT WHOLESALE MAY BE REQUIRED TO ENTER INTO A

53 BOND PAYABLE TO THE STATE OF MISSISSIPPI CONDITIONED THAT SUCH
54 DISTRIBUTOR WILL CONDUCT HIS BUSINESS LAWFULLY; TO AUTHORIZE THE
55 STATE TAX COMMISSION TO PROMULGATE RULES AND REGULATIONS GOVERNING
56 THE 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; and

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 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, 2006, 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. _____, 2005 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) Except as otherwise provided in this subsection
199 (1), manufacturer's permit, Class 1, distiller's and/or
200 rectifier's..... \$4,500.00
201 (b) Manufacturer's permit, Class 2, wine manufacturer
202 \$1,800.00
203 (c) Manufacturer's permit, Class 3, native wine
204 manufacturer per ten thousand (10,000) gallons or part thereof
205 produced..... \$ 10.00
206 (d) Native wine retailer's permit..... \$ 50.00
207 (e) Package retailer's permit, each..... \$ 900.00
208 (f) On-premises retailer's permit, except for clubs and
209 common carriers, each..... \$ 450.00
210 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
211 for each additional Five Thousand Dollars (\$5,000.00), or fraction
212 thereof..... \$ 225.00
213 (g) On-premises retailer's permit for wine of more than
214 four percent (4%) alcohol by volume, but not more than twenty-one
215 percent (21%) alcohol by volume, each..... \$ 225.00
216 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
217 for each additional Five Thousand Dollars (\$5,000.00), or fraction
218 thereof..... \$ 225.00
219 (h) On-premises retailer's permit for clubs.. \$ 225.00
220 On purchases exceeding Five Thousand Dollars (\$5,000.00)
221 and for each additional Five Thousand Dollars (\$5,000.00), or
222 fraction thereof..... \$ 225.00
223 (i) On-premises retailer's permit for common carriers,
224 per car, plane, or other vehicle..... \$ 120.00
225 (j) Solicitor's permit, regardless of any other
226 provision of law, solicitor's permits shall be issued only in the
227 discretion of the commission..... \$ 100.00
228 (k) Filing fee for each application except for an
229 employee identification card..... \$ 25.00
230 (l) Temporary permit, Class 1, each..... \$ 10.00

231	(m) Temporary permit, Class 2, each.....	\$ 50.00
232	On-premises purchases exceeding Five Thousand Dollars	
233	(\$5,000.00) and for each additional Five Thousand Dollars	
234	(\$5,000.00), or fraction thereof.....	\$ 225.00
235	(n) (i) Caterer's permit.....	\$ 600.00
236	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
237	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
238	thereof.....	\$ 250.00
239	(ii) Caterer's permit for holders of on-premises	
240	retailer's permit.....	\$ 150.00
241	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
242	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
243	thereof.....	\$ 250.00
244	(o) Research permit.....	\$ 100.00
245	(p) Filing fee for each application for an employee	
246	identification card.....	\$ 5.00
247	<u>(q) Wholesale alcoholic beverage distribution</u>	
248	<u>permit.....</u>	<u>\$1,800.00</u>

249 If a person approved for a manufacturer's permit, Class 1,
250 distiller's permit produces a product with at least fifty-one
251 percent (51%) of the finished product by volume being obtained
252 from alcoholic fermentation of grapes, fruits, berries, honey
253 and/or vegetables grown and produced in Mississippi, and produces
254 all of such product by using not more than one (1) still having a
255 maximum capacity of one hundred fifty (150) liters, the annual
256 privilege license tax for such a permit shall be Ten Dollars
257 (\$10.00) per ten thousand (10,000) gallons or part thereof
258 produced. Bulk, concentrated or fortified ingredients used for
259 blending may be produced outside this state and used in producing
260 such a product.

261 In addition to the filing fee imposed by item (k) of this
262 subsection, a fee to be determined by the State Tax Commission may
263 be charged to defray costs incurred to process applications. Such

264 additional fees shall be paid into the State Treasury to the
265 credit of a special fund account, which is hereby created, and
266 expenditures therefrom shall be made only to defray the costs
267 incurred by the State Tax Commission in processing alcoholic
268 beverage applications. Any unencumbered balance remaining in the
269 special fund account on June 30 of any fiscal year shall lapse
270 into the State General Fund.

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

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

282 (2) There is imposed and shall be collected from each
283 permittee, except a common carrier, solicitor, holder of an
284 employee identification card or a temporary permittee, by the
285 commission, an additional license tax equal to the amounts imposed
286 under subsection (1) of this section for the privilege of doing
287 business within any municipality or county in which the licensee
288 is located. If the licensee is located within a municipality, the
289 commission shall pay the amount of additional license tax to the
290 municipality, and if outside a municipality the commission shall
291 pay the additional license tax to the county in which the licensee
292 is located. Payments by the commission to the respective local
293 government subdivisions shall be made once each month for any
294 collections during the preceding month.

295 (3) When an application for any permit, other than for
296 renewal of a permit, has been rejected by the commission, such

297 decision shall be final. Appeal may be made in the manner
298 provided by Section 67-1-39. Another application from an
299 applicant who has been denied a permit shall not be reconsidered
300 within a twelve-month period.

301 (4) The number of permits issued by the commission shall not
302 be restricted or limited on a population basis; however, the
303 foregoing limitation shall not be construed to preclude the right
304 of the commission to refuse to issue a permit because of the
305 undesirability of the proposed location.

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

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

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

323 27-71-7. (1) There is hereby levied and assessed an excise
324 tax upon each case of alcoholic beverages sold by the holder of a
325 wholesale alcoholic beverage distribution permit to be collected
326 from each retail licensee at the time of sale in accordance with
327 the following schedule:

- 328 (a) Distilled spirits..... \$2.50 per gallon
329 (b) Sparkling wine and champagne..... \$1.00 per gallon

330 (c) Other wines, including native
331 wines..... \$.35 per gallon

332 (2) (a) In addition to the tax levied by subsection (1) of
333 this section, and in addition to any other markup collected, the
334 holder of a wholesale alcoholic beverage distribution permit shall
335 collect a markup of three percent (3%) on all alcoholic beverages,
336 as defined in Section 67-1-5, Mississippi Code of 1972, which are
337 sold by the holder of a wholesale alcoholic beverage distribution
338 permit. The proceeds of the markup shall be collected by the
339 holder of a wholesale alcoholic beverage distribution permit from
340 each purchaser at the time of purchase.

341 * * *

342 (b) * * * The revenue derived from this three percent
343 (3%) markup remitted to the State Tax Commission shall be
344 deposited by the State Tax Commission in the State Treasury to the
345 credit of the "Mental Health Programs Fund," a special fund which
346 is hereby created in the State Treasury and shall be used by the
347 State Department of Mental Health for the service programs of the
348 department. * * *

349 (3) The revenue derived from this tax and markup that is
350 collected by the holder of a wholesale alcoholic beverage
351 distribution permit shall be remitted by the holder of the
352 wholesale alcoholic beverage distribution permit to the State Tax
353 Commission at times prescribed by the commission.

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

356 27-71-9. The commission may promulgate regulations
357 authorizing persons holding on-premises retailer's permits for
358 common carriers, as provided herein, to file periodic reports and
359 pay a tax based upon the value of alcoholic beverages sold while
360 in this state. * * *

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

363 27-71-15. Except as otherwise provided in Section 67-9-1 for
364 the transportation of limited amounts of alcoholic beverages for
365 the use of an alcohol processing permittee, if transportation
366 requires passage through a county which has not authorized the
367 sale of alcoholic beverages, such transportation shall be by a
368 sealed vehicle. Such seal shall remain unbroken until the vehicle
369 shall reach the place of business operated by the permittee. The
370 operator of any vehicle transporting alcoholic beverages shall
371 have in his possession an invoice issued by the holder of a
372 wholesale alcoholic beverage distribution permit at the time of
373 the wholesale sale covering the merchandise transported by the
374 vehicle. The commission is authorized to issue regulations
375 controlling the transportation of alcoholic beverages.

376 When the restrictions imposed by this section and by the
377 regulation of the commission have not been violated, the person
378 transporting alcoholic beverages through a county wherein the sale
379 of alcoholic beverages is prohibited shall not be guilty of
380 unlawful possession and such merchandise shall be immune from
381 seizure.

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

384 27-71-21. Before any person shall engage in the business of
385 manufacturing, distributing or retailing of alcoholic beverages,
386 he may be required to enter into a bond payable to the State of
387 Mississippi, conditioned that he will conduct said business
388 strictly in accordance with the laws of the State of Mississippi,
389 and that he will comply with the rules and regulations prescribed
390 by the commission, and pay all taxes due the State of Mississippi.
391 The amount of bond required of a wholesale distributor shall be
392 set by the commission; the amount of a bond required of a
393 manufacturer, not including a producer of native wine, shall not
394 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount
395 required of a retailer shall be Five Thousand Dollars (\$5,000.00).

396 Provided, however, any retailer whose check for purchase of
397 merchandise or payment of taxes shall be dishonored may be
398 required by the commission to post additional bond not to exceed
399 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
400 surety company authorized to do business in the State of
401 Mississippi and shall be approved by the commission. The
402 commission shall be authorized to institute suit in the proper
403 court for any violation of the condition of said bonds. The
404 amount of the bond required of a producer of native wine shall be
405 Five Thousand Dollars (\$5,000.00).

406 As an alternative to entering into a bond as required by this
407 section, any person who shall engage in the business of
408 manufacturing, distributing or retailing alcoholic beverages may,
409 subject to the same conditions of conduct required for bonds,
410 deposit with the State Treasurer the equivalent amount of the bond
411 required for that particular person in cash or securities. The
412 only securities allowable for this purpose are those which may
413 legally be purchased by a bank or for trust funds, having a market
414 value not less than that of the required bond. The commission
415 shall file notice with the Treasurer for any violation of the
416 conditions of the cash or security deposit.

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

419 67-1-5. For the purposes of this chapter and unless
420 otherwise required by the context:

421 (a) "Alcoholic beverage" means any alcoholic liquid,
422 including wines of more than five percent (5%) of alcohol by
423 weight, capable of being consumed as a beverage by a human being,
424 but shall not include wine containing five percent (5%) or less of
425 alcohol by weight and shall not include beer containing not more
426 than five percent (5%) of alcohol by weight, as provided for in
427 Section 67-3-5, Mississippi Code of 1972, but shall include native

428 wines. The words "alcoholic beverage" shall not include ethyl
429 alcohol manufactured or distilled solely for fuel purposes.

430 (b) "Alcohol" means the product of distillation of any
431 fermented liquid, whatever the origin thereof, and includes
432 synthetic ethyl alcohol, but does not include denatured alcohol or
433 wood alcohol.

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

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

442 (e) "Person" means and includes any individual,
443 partnership, corporation, association or other legal entity
444 whatsoever.

445 (f) "Manufacturer" means any person engaged in
446 manufacturing, distilling, rectifying, blending or bottling any
447 alcoholic beverage.

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

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

455 (i) "Commission" means the State Tax Commission of the
456 State of Mississippi, which shall create a division in its
457 organization to be known as the Alcoholic Beverage Control
458 Division. Any reference to the commission hereafter means the
459 powers and duties of the State Tax Commission with reference to
460 supervision of the Alcoholic Beverage Control Division.

461 (j) "Division" means the Alcoholic Beverage Control
462 Division of the State Tax Commission.

463 (k) "Municipality" means any incorporated city or town
464 of this state.

465 (l) "Hotel" means an establishment within a
466 municipality, or within a qualified resort area approved as such
467 by the commission, where, in consideration of payment, food and
468 lodging are habitually furnished to travelers and wherein are
469 located at least twenty (20) adequately furnished and completely
470 separate sleeping rooms with adequate facilities that persons
471 usually apply for and receive as overnight accommodations. Hotels
472 in towns or cities of more than twenty-five thousand (25,000)
473 population are similarly defined except that they must have fifty
474 (50) or more sleeping rooms. Any such establishment described in
475 this paragraph with less than fifty (50) beds shall operate one or
476 more regular dining rooms designed to be constantly frequented by
477 customers each day. When used in this chapter, the word "hotel"
478 shall also be construed to include any establishment that meets
479 the definition of "bed and breakfast inn" as provided in this
480 section.

481 (m) "Restaurant" means a place which is regularly and
482 in a bona fide manner used and kept open for the serving of meals
483 to guests for compensation, which has suitable seating facilities
484 for guests, and which has suitable kitchen facilities connected
485 therewith for cooking an assortment of foods and meals commonly
486 ordered at various hours of the day; the service of such food as
487 sandwiches and salads only shall not be deemed in compliance with
488 this requirement. No place shall qualify as a restaurant under
489 this chapter unless twenty-five percent (25%) or more of the
490 revenue derived from such place shall be from the preparation,
491 cooking and serving of meals and not from the sale of beverages,
492 or unless the value of food given to and consumed by customers is
493 equal to twenty-five percent (25%) or more of total revenue.

494 (n) "Club" means an association or a corporation:
495 (i) Organized or created under the laws of this
496 state for a period of five (5) years prior to July 1, 1966;
497 (ii) Organized not primarily for pecuniary profit
498 but for the promotion of some common object other than the sale or
499 consumption of alcoholic beverages;
500 (iii) Maintained by its members through the
501 payment of annual dues;
502 (iv) Owning, hiring or leasing a building or space
503 in a building of such extent and character as may be suitable and
504 adequate for the reasonable and comfortable use and accommodation
505 of its members and their guests;
506 (v) The affairs and management of which are
507 conducted by a board of directors, board of governors, executive
508 committee, or similar governing body chosen by the members at a
509 regular meeting held at some periodic interval; and
510 (vi) No member, officer, agent or employee of
511 which is paid, or directly or indirectly receives, in the form of
512 a salary or other compensation any profit from the distribution or
513 sale of alcoholic beverages to the club or to members or guests of
514 the club beyond such salary or compensation as may be fixed and
515 voted at a proper meeting by the board of directors or other
516 governing body out of the general revenues of the club.
517 The commission may, in its discretion, waive the five-year
518 provision of this paragraph. In order to qualify under this
519 paragraph, a club must file with the commission, at the time of
520 its application for a license under this chapter, two (2) copies
521 of a list of the names and residences of its members and similarly
522 file, within ten (10) days after the election of any additional
523 member, his name and address. Each club applying for a license
524 shall also file with the commission at the time of the application
525 a copy of its articles of association, charter of incorporation,

526 bylaws or other instruments governing the business and affairs
527 thereof.

528 (o) "Qualified resort area" means any area or locality
529 outside of the limits of incorporated municipalities in this state
530 commonly known and accepted as a place which regularly and
531 customarily attracts tourists, vacationists and other transients
532 because of its historical, scenic or recreational facilities or
533 attractions, or because of other attributes which regularly and
534 customarily appeal to and attract tourists, vacationists and other
535 transients in substantial numbers; however, no area or locality
536 shall so qualify as a resort area until it has been duly and
537 properly approved as such by the commission.

538 (i) The commission may approve an area or locality
539 outside of the limits of an incorporated municipality that is in
540 the process of being developed as a qualified resort area if such
541 area or locality, when developed, can reasonably be expected to
542 meet the requisites of the definition of the term "qualified
543 resort area." In such a case, the status of qualified resort area
544 shall not take effect until completion of the development.

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

553 (iii) The term includes:

554 1. The clubhouses associated with the state
555 park golf courses at the Lefleur's Bluff State Park, the John Kyle
556 State Park, the Percy Quin State Park and the Hugh White State
557 Park; and

558 2. The clubhouse and associated golf course
559 where the golf course is adjacent to one or more planned
560 residential developments and the golf course and all such
561 developments collectively include at least seven hundred fifty
562 (750) acres and at least four hundred (400) residential units.

563 The status of these clubhouses and golf courses as qualified
564 resort areas does not require any declaration of same by the
565 commission.

566 (p) "Native wine" means any product, produced in
567 Mississippi for sale, having an alcohol content not to exceed
568 twenty-one percent (21%) by weight and made in accordance with
569 revenue laws of the United States, which shall be obtained
570 primarily from the alcoholic fermentation of the juice of ripe
571 grapes, fruits, berries or vegetables grown and produced in
572 Mississippi; provided that bulk, concentrated or fortified wines
573 used for blending may be produced without this state and used in
574 producing native wines. The commission shall adopt and promulgate
575 rules and regulations to permit a producer to import such bulk
576 and/or fortified wines into this state for use in blending with
577 native wines without payment of any excise tax that would
578 otherwise accrue thereon.

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

582 (r) "Bed and breakfast inn" means an establishment
583 within a municipality where in consideration of payment, breakfast
584 and lodging are habitually furnished to travelers and wherein are
585 located not less than eight (8) and not more than nineteen (19)
586 adequately furnished and completely separate sleeping rooms with
587 adequate facilities, that persons usually apply for and receive as
588 overnight accommodations; however, such restriction on the minimum
589 number of sleeping rooms shall not apply to establishments on the
590 National Register of Historic Places. No place shall qualify as a

591 bed and breakfast inn under this chapter unless on the date of the
592 initial application for a license under this chapter more than
593 fifty percent (50%) of the sleeping rooms are located in a
594 structure formerly used as a residence.

595 (s) "Wholesale alcoholic beverage distributor" means a
596 person engaged in purchasing, transporting and storing alcoholic
597 beverages within the State of Mississippi and selling at wholesale
598 alcoholic beverages to permittees who are authorized to sell
599 alcoholic beverages at retail.

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

602 67-1-9. (1) It shall be unlawful for any person to
603 manufacture, distill, brew, sell, possess, import into this state,
604 export from the state, transport, distribute, warehouse, store,
605 solicit, take order for, bottle, rectify, blend, treat, mix or
606 process any alcoholic beverage except as authorized in this
607 chapter. However, nothing contained herein shall prevent
608 importers, wineries and distillers of alcoholic beverages from
609 storing such alcoholic beverages in private bonded warehouses
610 located within the State of Mississippi, and nothing contained
611 herein shall prohibit the holder of a wholesale alcoholic beverage
612 distribution permit from storing alcoholic beverages in private
613 bonded warehouses located in the State of Mississippi for resale
614 to authorized permittees. The commission is hereby authorized to
615 promulgate rules and regulations for the establishment of such
616 private bonded warehouses and for the control of alcoholic
617 beverages stored in such warehouses. Additionally, nothing herein
618 contained shall prevent any duly licensed practicing physician or
619 dentist from possessing or using alcoholic liquor in the strict
620 practice of his profession, or prevent any hospital or other
621 institution caring for sick and diseased persons, from possessing
622 and using alcoholic liquor for the treatment of bona fide patients
623 of such hospital or other institution. Any drugstore employing a

624 licensed pharmacist may possess and use alcoholic liquors in the
625 combination of prescriptions of duly licensed physicians. The
626 possession and dispensation of wine by an authorized
627 representative of any church for the purpose of conducting any
628 bona fide rite or religious ceremony conducted by such church
629 shall not be prohibited by this chapter.

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

632 (a) By a fine of not less than One Hundred Dollars
633 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
634 imprisonment in the county jail not less than one (1) week nor
635 more than three (3) months, or both, for the first conviction
636 under this section.

637 (b) By a fine of not less than One Hundred Dollars
638 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
639 imprisonment in the county jail not less than sixty (60) days, nor
640 more than six (6) months, or both fine and imprisonment, for the
641 second conviction for violating this section.

642 (c) By a fine of not less than One Hundred Dollars
643 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
644 imprisonment in the State Penitentiary not less than one (1) year,
645 nor more than five (5) years, or both fine and imprisonment, for
646 conviction the third time under this section for the violation
647 thereof after having been twice convicted of its violation.

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

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

651 67-1-37. The State Tax Commission, under its duties and
652 powers with respect to the Alcoholic Beverage Control Division
653 therein, shall have the following powers, functions and duties:

654 (a) To issue or refuse to issue any permit provided for
655 by this chapter, or to extend the permit or remit in whole or any

656 part of the permit monies when the permit cannot be used due to a
657 natural disaster or Act of God.

658 (b) To revoke, suspend or cancel, for violation of or
659 noncompliance with the provisions of this chapter, or the law
660 governing the production and sale of native wines, or any lawful
661 rules and regulations of the commission issued hereunder, or for
662 other sufficient cause, any permit issued by it under the
663 provisions of this chapter; however, no such permit shall be
664 revoked, suspended or cancelled except after a hearing of which
665 the permit holder shall have been given reasonable notice and an
666 opportunity to be heard. The commission shall be authorized to
667 suspend the permit of any permit holder for being out of
668 compliance with an order for support, as defined in Section
669 93-11-153. The procedure for suspension of a permit for being out
670 of compliance with an order for support, and the procedure for the
671 reissuance or reinstatement of a permit suspended for that
672 purpose, and the payment of any fees for the reissuance or
673 reinstatement of a permit suspended for that purpose, shall be
674 governed by Section 93-11-157 or Section 93-11-163, as the case
675 may be. If there is any conflict between any provision of Section
676 93-11-157 or Section 93-11-163 and any provision of this chapter,
677 the provisions of Section 93-11-157 or Section 93-11-163, as the
678 case may be, shall control.

679 (c) To prescribe forms of permits and applications for
680 permits and of all reports which it deems necessary in
681 administering this chapter.

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

686 (e) To issue rules regulating the advertising of
687 alcoholic beverages in the state in any class of media and
688 permitting advertising of the retail price of alcoholic beverages.

689 (f) To issue reasonable rules and regulations, not
690 inconsistent with the federal laws or regulations, requiring
691 informative labeling of all alcoholic beverages offered for sale
692 within this state and providing for the standards of fill and
693 shapes of retail containers of alcoholic beverages; however, such
694 containers shall not contain less than fifty (50) milliliters by
695 liquid measure.

696 (g) Subject to the provisions of * * * Section
697 67-1-51(3), to issue rules and regulations governing the issuance
698 of retail permits for premises located near or around schools,
699 colleges, universities, churches and other public institutions,
700 and specifying the distances therefrom within which no such permit
701 shall be issued. The Alcoholic Beverage Control Division shall
702 not allow the sale or consumption of alcoholic beverages in or on
703 the campus of any public school or college, and no alcoholic
704 beverage shall be for sale or consumed at any public athletic
705 event at any grammar or high school or any college.

706 (h) To adopt and promulgate, repeal and amend, such
707 rules, regulations, standards, requirements and orders, not
708 inconsistent with this chapter or any law of this state or of the
709 United States, as it deems necessary to control the manufacture,
710 importation, transportation, distribution and sale of alcoholic
711 liquor, whether intended for beverage or nonbeverage use in a
712 manner not inconsistent with the provisions of this chapter or any
713 other statute, including the native wine laws.

714 (i) To call upon other administrative departments of
715 the state, county and municipal governments, county and city
716 police departments and upon prosecuting officers for such
717 information and assistance as it may deem necessary in the
718 performance of its duties.

719 (j) To prepare and submit to the Governor during the
720 month of January of each year a detailed report of its official
721 acts during the preceding fiscal year ending June 30, including

722 such recommendations as it may see fit to make, and to transmit a
723 like report to each member of the Legislature of this state upon
724 the convening thereof at its next regular session.

725 (k) To inspect, or cause to be inspected, any premises
726 where alcoholic liquors intended for sale are manufactured,
727 stored, distributed or sold, and to examine or cause to be
728 examined all books and records pertaining to the business
729 conducted therein.

730 (l) In the conduct of any hearing authorized to be held
731 by the commission, to hear testimony and take proof material for
732 its information in the discharge of its duties under this chapter;
733 to issue subpoenas, which shall be effective in any part of this
734 state, requiring the attendance of witnesses and the production of
735 books and records; to administer or cause to be administered
736 oaths; and to examine or cause to be examined any witness under
737 oath. Any court of record, or any judge thereof, may by order
738 duly entered require the attendance of witnesses and the
739 production of relevant books subpoenaed by the commission, and
740 such court or judge may compel obedience to its or his order by
741 proceedings for contempt.

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

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

750 (o) To assign employees to posts of duty at locations
751 where they will be most beneficial for the control of alcoholic
752 beverages, to remove, to dismiss, to suspend without pay, to act
753 as a trial board in hearings based upon charges against employees.
754 After twelve (12) months' service, no employee shall be removed,

755 dismissed, demoted or suspended without just cause and only after
756 being furnished with reasons for such removal, dismissal, demotion
757 or suspension, and upon request given a hearing in his own
758 defense.

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

762 (q) To adopt and promulgate rules and regulations for
763 suspension or revocation of identification cards of employees of
764 permittees for violations of the alcoholic beverage control laws,
765 rules or regulations.

766 (r) To enforce the provisions made unlawful by Sections
767 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

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

772 67-1-37. The State Tax Commission, under its duties and
773 powers with respect to the Alcoholic Beverage Control Division
774 therein, shall have the following powers, functions and duties:

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

779 (b) To revoke, suspend or cancel, for violation of or
780 noncompliance with the provisions of this chapter, or the law
781 governing the production and sale of native wines, or any lawful
782 rules and regulations of the commission issued hereunder, or for
783 other sufficient cause, any permit issued by it under the
784 provisions of this chapter; however, no such permit shall be
785 revoked, suspended or cancelled except after a hearing of which
786 the permit holder shall have been given reasonable notice and an
787 opportunity to be heard. The commission shall be authorized to

788 suspend the permit of any permit holder for being out of
789 compliance with an order for support, as defined in Section
790 93-11-153. The procedure for suspension of a permit for being out
791 of compliance with an order for support, and the procedure for the
792 reissuance or reinstatement of a permit suspended for that
793 purpose, and the payment of any fees for the reissuance or
794 reinstatement of a permit suspended for that purpose, shall be
795 governed by Section 93-11-157 or 93-11-163, as the case may be.
796 If there is any conflict between any provision of Section
797 93-11-157 or 93-11-163 and any provision of this chapter, the
798 provisions of Section 93-11-157 or 93-11-163, as the case may be,
799 shall control.

800 (c) To prescribe forms of permits and applications for
801 permits and of all reports which it deems necessary in
802 administering this chapter.

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

807 (e) To issue rules regulating the advertising of
808 alcoholic beverages in the state in any class of media and
809 permitting advertising of the retail price of alcoholic beverages.

810 (f) To issue reasonable rules and regulations, not
811 inconsistent with the federal laws or regulations, requiring
812 informative labeling of all alcoholic beverages offered for sale
813 within this state and providing for the standards of fill and
814 shapes of retail containers of alcoholic beverages; however, such
815 containers shall not contain less than fifty (50) milliliters by
816 liquid measure.

817 (g) Subject to the provisions of * * * Section
818 67-1-51(3), to issue rules and regulations governing the issuance
819 of retail permits for premises located near or around schools,
820 colleges, universities, churches and other public institutions,

821 and specifying the distances therefrom within which no such permit
822 shall be issued. The Alcoholic Beverage Control Division shall
823 not allow the sale or consumption of alcoholic beverages in or on
824 the campus of any public school or college, and no alcoholic
825 beverage shall be for sale or consumed at any public athletic
826 event at any grammar or high school or any college.

827 (h) To adopt and promulgate, repeal and amend, such
828 rules, regulations, standards, requirements and orders, not
829 inconsistent with this chapter or any law of this state or of the
830 United States, as it deems necessary to control the manufacture,
831 importation, transportation, distribution and sale of alcoholic
832 liquor, whether intended for beverage or nonbeverage use in a
833 manner not inconsistent with the provisions of this chapter or any
834 other statute, including the native wine laws.

835 (i) To call upon other administrative departments of
836 the state, county and municipal governments, county and city
837 police departments and upon prosecuting officers for such
838 information and assistance as it may deem necessary in the
839 performance of its duties.

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

846 (k) To inspect, or cause to be inspected, any premises
847 where alcoholic liquors intended for sale are manufactured,
848 stored, distributed or sold, and to examine or cause to be
849 examined all books and records pertaining to the business
850 conducted therein.

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

854 to issue subpoenas, which shall be effective in any part of this
855 state, requiring the attendance of witnesses and the production of
856 books and records; to administer or cause to be administered
857 oaths; and to examine or cause to be examined any witness under
858 oath. Any court of record, or any judge thereof, may by order
859 duly entered require the attendance of witnesses and the
860 production of relevant books subpoenaed by the commission, and
861 such court or judge may compel obedience to its or his order by
862 proceedings for contempt.

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

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

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

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

883 (q) To adopt and promulgate rules and regulations for
884 suspension or revocation of identification cards of employees of
885 permittees for violations of the alcoholic beverage control laws,
886 rules or regulations.

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

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

891 67-1-41. * * *

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

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

902 (3) The commission may promulgate rules and regulations
903 which authorize on-premises retailers to purchase limited amounts
904 of alcoholic beverages from package retailers and for package
905 retailers to purchase limited amounts of alcoholic beverages from
906 other package retailers. The commission shall develop and provide
907 forms to be completed by the on-premises retailers and the package
908 retailers verifying the transaction. The completed forms shall be
909 forwarded to the commission within a period of time prescribed by
910 the commission.

911 * * *

912 (4) The commission shall maintain all forms to be completed
913 by applicants necessary for licensure by the commission at all
914 district offices of the commission.

915 (5) The commission may promulgate rules which authorize the
916 manufacturer of an alcoholic beverage or wine to import, transport
917 and furnish or give a sample of alcoholic beverages or wines to
918 the holders of package retailer's permits, on-premises retailer's
919 permits, native wine retailer's permits and temporary retailer's

920 permits who have not previously purchased the brand of that
921 manufacturer from the commission. For each holder of the
922 designated permits, the manufacturer may furnish not more than
923 five hundred (500) milliliters of any brand of alcoholic beverage
924 and not more than three (3) liters of any brand of wine.

925 (6) The commission may promulgate rules disallowing open
926 product sampling of alcoholic beverages or wines by the holders of
927 package retailer's permits and permitting open product sampling of
928 alcoholic beverages by the holders of on-premises retailer's
929 permits. Permitted sample products shall be plainly identified
930 "sample" and the actual sampling must occur in the presence of the
931 manufacturer's representatives during the legal operating hours of
932 on-premises retailers.

933 (7) The commission may promulgate rules and regulations that
934 authorize the holder of a research permit to import and purchase
935 limited amounts of alcoholic beverages from importers, wineries,
936 distillers and wholesale distributors of alcoholic
937 beverages * * *. The commission shall develop and provide forms
938 to be completed by the research permittee verifying each
939 transaction. The completed forms shall be forwarded to the
940 commission within a period of time prescribed by the commission.
941 The records and inventory of alcoholic beverages shall be open to
942 inspection at any time by the Director of the Alcoholic Beverage
943 Control Division or any duly authorized agent.

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

946 67-1-43. Any authorized retail distributor who shall
947 purchase or receive intoxicating liquor from any source except
948 from the holder of a wholesale alcoholic beverage distribution
949 permit, unless authorized by rules and regulations of the
950 commission promulgated under subsection (4) of Section 67-1-41,
951 shall be guilty of a misdemeanor and upon conviction thereof shall
952 be punished by a fine of not less than Five Hundred Dollars

953 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to
954 which may be added imprisonment in the county jail for not more
955 than six (6) months. Any authorization of such person to sell
956 intoxicating beverages may be revoked as provided by law.

957 This section shall not apply to any authorized retail
958 distributor who shall purchase native wines directly from the
959 producer.

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

962 67-1-45. No manufacturer, rectifier, * * * distiller or
963 wholesale distributor of intoxicating liquor shall sell or attempt
964 to sell any such intoxicating liquor, except malt liquor, within
965 the State of Mississippi, except as authorized in this
966 chapter. * * * A producer of native wine may sell native wines to
967 an * * * authorized retail distributor or directly to consumers.

968 Any violation of this section by any manufacturer, rectifier,
969 or distiller shall be punished by a fine of not less than Five
970 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
971 (\$2,000.00), to which may be added imprisonment in the county jail
972 not to exceed six (6) months.

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

975 67-1-51. (1) Permits which may be issued by the commission
976 shall be as follows:

977 (a) **Manufacturer's permit.** A manufacturer's permit
978 shall permit the manufacture, importation in bulk, bottling and
979 storage of alcoholic liquor and its distribution and sale to
980 manufacturers holding permits under this chapter in this state and
981 to persons outside the state who are authorized by law to purchase
982 the same * * *. Manufacturer's permits shall be of the following
983 classes:

984 Class 1. Distiller's and/or rectifier's permit, which
985 shall authorize the holder thereof to operate a distillery for the

986 production of distilled spirits by distillation or redistillation
987 and/or to operate a rectifying plant for the purifying, refining,
988 mixing, blending, flavoring or reducing in proof of distilled
989 spirits and alcohol.

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

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

996 (b) **Package retailer's permit.** Except as otherwise
997 provided in this paragraph, a package retailer's permit shall
998 authorize the holder thereof to operate a store exclusively for
999 the sale at retail in original sealed and unopened packages of
1000 alcoholic beverages, including native wines, not to be consumed on
1001 the premises where sold. Alcoholic beverages shall not be sold by
1002 any retailer in any package or container containing less than
1003 fifty (50) milliliters by liquid measure. In addition to the sale
1004 at retail of packages of alcoholic beverages, the holder of a
1005 package retailer's permit is authorized to sell at retail
1006 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
1007 other beverages commonly used to mix with alcoholic beverages.
1008 Nonalcoholic beverages sold by the holder of a package retailer's
1009 permit shall not be consumed on the premises where sold.

1010 (c) **On-premises retailer's permit.** An on-premises
1011 retailer's permit shall authorize the sale of alcoholic beverages,
1012 including native wines, for consumption on the licensed premises
1013 only. Such a permit shall issue only to qualified hotels,
1014 restaurants and clubs, and to common carriers with adequate
1015 facilities for serving passengers. In resort areas, whether
1016 inside or outside of a municipality, the commission may, in its
1017 discretion, issue on-premises retailer's permits to such
1018 establishments as it deems proper. An on-premises retailer's

1019 permit when issued to a common carrier shall authorize the sale
1020 and serving of alcoholic beverages aboard any licensed vehicle
1021 while moving through any county of the state; however, the sale of
1022 such alcoholic beverages shall not be permitted while such vehicle
1023 is stopped in a county that has not legalized such sales.

1024 (d) **Solicitor's permit.** A solicitor's permit shall
1025 authorize the holder thereof to act as salesman for a manufacturer
1026 or wholesaler holding a proper permit, to solicit on behalf of his
1027 employer orders for alcoholic beverages, and to otherwise promote
1028 his employer's products in a legitimate manner. Such a permit
1029 shall authorize the representation of and employment by one (1)
1030 principal only. However, the permittee may also, in the
1031 discretion of the commission, be issued additional permits to
1032 represent other principals. No such permittee shall buy or sell
1033 alcoholic beverages for his own account, and no such beverage
1034 shall be brought into this state in pursuance of the exercise of
1035 such permit otherwise than through a permit issued to a wholesaler
1036 or manufacturer in the state.

1037 (e) **Native wine retailer's permit.** A native wine
1038 retailer's permit shall be issued only to a holder of a Class 3
1039 manufacturer's permit, and shall authorize the holder thereof to
1040 make retail sales of native wines to consumers for on-premises
1041 consumption or to consumers in originally sealed and unopened
1042 containers at an establishment located on the premises of or in
1043 the immediate vicinity of a native winery.

1044 (f) **Temporary retailer's permit.** A temporary
1045 retailer's permit shall permit the purchase and resale of
1046 alcoholic beverages, including native wines, during legal hours on
1047 the premises described in the temporary permit only.

1048 Temporary retailer's permits shall be of the following
1049 classes:

1050 Class 1. A temporary one-day permit may be issued to bona
1051 fide nonprofit civic or charitable organizations authorizing the

1052 sale of alcoholic beverages, including native wine, for
1053 consumption on the premises described in the temporary permit
1054 only. Class 1 permits may be issued only to applicants
1055 demonstrating to the commission, by affidavit submitted ten (10)
1056 days prior to the proposed date or such other time as the
1057 commission may determine, that they meet the qualifications of
1058 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
1059 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
1060 obtain all alcoholic beverages from package retailers located in
1061 the county in which the temporary permit is issued. Alcoholic
1062 beverages remaining in stock upon expiration of the temporary
1063 permit may be returned by the permittee to the package retailer
1064 for a refund of the purchase price upon consent of the package
1065 retailer or may be kept by the permittee exclusively for personal
1066 use and consumption, subject to all laws pertaining to the illegal
1067 sale and possession of alcoholic beverages. The commission,
1068 following review of the affidavit and the requirements of the
1069 applicable statutes and regulations, may issue the permit.

1070 Class 2. A temporary permit, not to exceed seventy (70)
1071 days, may be issued to prospective permittees seeking to transfer
1072 a permit authorized in either paragraph (b) or (c) of this
1073 section. A Class 2 permit may be issued only to applicants
1074 demonstrating to the commission, by affidavit, that they meet the
1075 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
1076 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
1077 commission, following a preliminary review of the affidavit and
1078 the requirements of the applicable statutes and regulations, may
1079 issue the permit.

1080 Class 2 temporary permittees must purchase their alcoholic
1081 beverages directly from the commission or, with approval of the
1082 commission, purchase the remaining stock of the previous
1083 permittee. If the proposed applicant of a Class 1 or Class 2
1084 temporary permit falsifies information contained in the

1085 application or affidavit, the applicant shall never again be
1086 eligible for a retail alcohol beverage permit and shall be subject
1087 to prosecution for perjury.

1088 (g) **Caterer's permit.** A caterer's permit shall permit
1089 the purchase of alcoholic beverages by a person engaging in
1090 business as a caterer and the resale of alcoholic beverages by
1091 such person in conjunction with such catering business. No person
1092 shall qualify as a caterer unless forty percent (40%) or more of
1093 the revenue derived from such catering business shall be from the
1094 serving of prepared food and not from the sale of alcoholic
1095 beverages and unless such person has obtained a permit for such
1096 business from the Department of Health. A caterer's permit shall
1097 not authorize the sale of alcoholic beverages on the premises of
1098 the person engaging in business as a caterer; however, the holder
1099 of an on-premises retailer's permit may hold a caterer's permit.
1100 All sales of alcoholic beverages by holders of a caterer's permit
1101 shall be made at the location being catered by the caterer, and
1102 such sales may be made only for consumption at the catered
1103 location. Such sales shall be made pursuant to any other
1104 conditions and restrictions which apply to sales made by
1105 on-premises retail permittees. The holder of a caterer's permit
1106 or his employees shall remain at the catered location as long as
1107 alcoholic beverages are being sold pursuant to the permit issued
1108 under this paragraph (g), and the permittee and employees at such
1109 location shall each have personal identification cards issued by
1110 the Alcoholic Beverage Control Division of the commission. No
1111 unsold alcoholic beverages may be left at the catered location by
1112 the permittee upon the conclusion of his business at that
1113 location. Appropriate law enforcement officers and Alcoholic
1114 Beverage Control Division personnel may enter a catered location
1115 on private property in order to enforce laws governing the sale or
1116 serving of alcoholic beverages.

1117 (h) **Research Permit.** A research permit shall authorize
1118 the holder thereof to operate a research facility for the
1119 professional research of alcoholic beverages. Such permit shall
1120 authorize the holder of the permit to import and purchase limited
1121 amounts of alcoholic beverages from * * * importers, wineries,
1122 distillers and distributors of alcoholic beverages for
1123 professional research.

1124 (i) **Alcohol processing permit.** An alcohol processing
1125 permit shall authorize the holder thereof to purchase, transport
1126 and possess alcoholic beverages for the exclusive use in cooking,
1127 processing or manufacturing products which contain alcoholic
1128 beverages as an integral ingredient. An alcohol processing permit
1129 shall not authorize the sale of alcoholic beverages on the
1130 premises of the person engaging in the business of cooking,
1131 processing or manufacturing products which contain alcoholic
1132 beverages. The amounts of alcoholic beverages allowed under an
1133 alcohol processing permit shall be set by the commission.

1134 (j) **Wholesale alcoholic beverage distribution permit.**
1135 A wholesale alcoholic beverage distribution permit shall be issued
1136 only to private entities who are granted the authority to
1137 distribute alcoholic beverages at retail pursuant to Section 2 of
1138 Senate Bill No. , 2005 Regular Session. Such permit shall
1139 authorize the holder thereof to purchase for resale, to store and
1140 to distribute to authorized permittees, alcoholic beverages. Such
1141 permit shall entitle the holder thereof to purchase alcoholic
1142 beverages from any manufacturer or importer for the purpose of
1143 resale in this state to permittees that are authorized to sell
1144 alcoholic beverages at retail. The holder of a wholesale
1145 alcoholic beverage distribution permit may transport alcoholic
1146 beverages into the State of Mississippi and store such alcoholic
1147 beverages in a private bonded warehouse of such permittee's choice
1148 for sale to permittees who are authorized to sell alcoholic
1149 beverages at retail. The holder of a wholesale alcoholic beverage

1150 distribution permit may solicit orders for alcoholic beverages
1151 from any permittee that is authorized to sell alcoholic beverages
1152 at retail. Records of such orders shall be kept and maintained
1153 for a period of three (3) years after the order is taken and shall
1154 be subject to inspection by the division at any time without prior
1155 notice.

1156 (2) Except as otherwise provided in subsection (4) of this
1157 section, retail permittees may hold more than one (1) retail
1158 permit, at the discretion of the commission.

1159 (3) Except as otherwise provided in this subsection, no
1160 authority shall be granted to any person to manufacture, sell or
1161 store for sale any intoxicating liquor as specified in this
1162 chapter within four hundred (400) feet of any church, school,
1163 kindergarten or funeral home. However, within an area zoned
1164 commercial or business, such minimum distance shall be not less
1165 than one hundred (100) feet.

1166 A church or funeral home may waive the distance restrictions
1167 imposed in this subsection in favor of allowing issuance by the
1168 commission of a permit, pursuant to subsection (1) of this
1169 section, to authorize activity relating to the manufacturing, sale
1170 or storage of alcoholic beverages which would otherwise be
1171 prohibited under the minimum distance criterion. Such waiver
1172 shall be in written form from the owner, the governing body, or
1173 the appropriate officer of the church or funeral home having the
1174 authority to execute such a waiver, and the waiver shall be filed
1175 with and verified by the commission before becoming effective.

1176 The distance restrictions imposed in this subsection shall
1177 not apply to the sale or storage of alcoholic beverages at a bed
1178 and breakfast inn listed in the National Register of Historic
1179 Places.

1180 (4) No person, either individually or as a member of a firm,
1181 partnership or association, or as a stockholder, officer or
1182 director in a corporation, shall own or control any interest in

1183 more than one (1) package retailer's permit, nor shall such
1184 person's spouse, if living in the same household of such person,
1185 any relative of such person, if living in the same household of
1186 such person, or any other person living in the same household with
1187 such person own any interest in any other package retailer's
1188 permit.

1189 **SECTION 18.** Section 67-1-77, Mississippi Code of 1972, is
1190 amended as follows:

1191 67-1-77. (1) It shall be unlawful for the holder of a
1192 manufacturer's permit, wholesale alcoholic beverage distribution
1193 permit, or anyone connected with the business of such holder, or
1194 for any other distiller, wine manufacturer, wholesale distributor,
1195 brewer, rectifier, blender or bottler, to have any financial
1196 interest in any premises upon which any alcoholic beverage is sold
1197 at retail by any permittee, or in the business conducted by such
1198 permittee; provided, however, the holder of a manufacturer's or
1199 wholesale alcoholic beverage distribution permit may contract for
1200 the service of a representative in the area of governmental
1201 affairs on a part-time basis with a holder of an on-premises
1202 permit.

1203 (2) It shall * * * be unlawful for any such person, or
1204 anyone connected with his, its, or their business to lend any
1205 money or make any gift or offer any gratuity, to any retail
1206 permittee, except as authorized by regulations of the commission,
1207 to the holder of any retail permit issued under the provisions of
1208 this chapter. Except as above provided, no retail permittee shall
1209 accept, receive, or make use of any money or gift furnished by any
1210 such person, or become indebted to such person except for the
1211 purchase of alcoholic beverages.

1212 (3) The commission shall not prohibit the furnishing of
1213 advertising specialties, printed materials, or other things having
1214 nominal value to a retail permittee. This section shall not be
1215 construed to prohibit the possession by any person of advertising

1216 specialties, printed materials, or other things having nominal
1217 value furnished by a retail permittee.

1218 (4) Any person violating the provisions of this section
1219 shall, upon conviction, be punished by a fine of not more than
1220 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1221 than two (2) years, or by both such fine and imprisonment, in the
1222 discretion of the court.

1223 **SECTION 19.** Section 67-1-79, Mississippi Code of 1972, is
1224 amended as follows:

1225 67-1-79. * * * (1) Each delivery of any alcoholic beverage
1226 to a retail permittee shall be accompanied by an invoice of sale
1227 or delivery slip which shall bear as its date the date of delivery
1228 of such alcoholic beverage.

1229 (2) The holder of a wholesale alcoholic beverage
1230 distribution permit shall deliver alcoholic beverages ordered by
1231 retail permittees within three (3) days of the receipt of an order
1232 made by the retail permittee.

1233 **SECTION 20.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,
1234 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the
1235 State Tax Commission to request the State Bond Commission to
1236 provide sufficient funds required to maintain an adequate
1237 alcoholic beverage inventory, require the State Tax Commission to
1238 purchase directly from the manufacturer, provide penalties for
1239 selling alcoholic beverages not identified as having been
1240 purchased by the commission, require distillers and distributors
1241 dealing with the State Tax Commission to register with the
1242 Secretary of State and require distillers having contracts with
1243 the State Tax Commission to file statements of salary expenses,
1244 are repealed.

1245 **SECTION 21.** Sections 1 and 2 of this act shall be codified
1246 in Chapter 1, Title 25, Mississippi Code of 1972.

1247 **SECTION 22.** Sections 1, 2, 3 and 4 of this act shall take
1248 effect and be in force from and after their passage; the remainder
1249 shall take effect and be in force from and after January 1, 2005.