

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2740

1 AN ACT TO CREATE NEW SECTION 67-1-42, MISSISSIPPI CODE OF
 2 1972, TO AUTHORIZE A PERSON DOMICILED IN A STATE OUTSIDE THE STATE
 3 OF MISSISSIPPI THAT POSSESSES A VALID LICENSE IN HIS STATE OF
 4 DOMICILE AS AN ALCOHOLIC BEVERAGE MANUFACTURER, IMPORTER,
 5 WHOLESALE OR RETAILER, OR ITS EQUIVALENT, TO SELL AND SHIP TO ANY
 6 PERSON IN THIS STATE WHO HOLDS A PACKAGE RETAILER'S PERMIT OR AN
 7 ON-PREMISES RETAILER'S PERMIT ANY MANUFACTURED WINE THAT IS NOT
 8 LISTED BY THE DIVISION AS A PART OF ITS INVENTORY AND DISTRIBUTION
 9 OPERATION IF THE PERSON OBTAINS A DIRECT SHIPPER'S PERMIT FROM THE
 10 STATE TAX COMMISSION; TO PROVIDE FOR THE ISSUANCE OF DIRECT
 11 SHIPPER'S PERMITS; TO REQUIRE THE HOLDER OF A DIRECT SHIPPER'S
 12 PERMIT TO OFFER TO SELL TO THE COMMISSION AT WHOLESALE, ANY
 13 MANUFACTURED WINE THAT THE PERMITTEE SHIPS INTO THE STATE OF
 14 MISSISSIPPI IN EXCESS OF 270 LITERS DURING ANY PERIOD OF TWELVE
 15 CONSECUTIVE MONTHS AND TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL
 16 DIVISION TO LIST THE WINE ON ITS PRODUCT INVENTORY FOR SALE; TO
 17 REQUIRE A PERSON 21 YEARS OF AGE OR OLDER TO SIGN FOR WINE SHIPPED
 18 BY THE HOLDER OF A DIRECT SHIPPER'S PERMIT; TO REQUIRE THE HOLDER
 19 OF A DIRECT SHIPPER'S PERMIT TO KEEP CERTAIN RECORDS; TO PROHIBIT
 20 THE HOLDER OF A DIRECT SHIPPER'S PERMIT FROM SHIPPING ANY LIGHT
 21 WINE OR BEER OR ANY ALCOHOLIC BEVERAGE OTHER THAN MANUFACTURED
 22 WINE OR ANY MANUFACTURED WINE THAT IS LISTED BY THE ALCOHOLIC
 23 BEVERAGE CONTROL DIVISION OF AS A PART OF ITS INVENTORY AND
 24 DISTRIBUTION OPERATION; TO PROVIDE PENALTIES FOR VIOLATIONS OF
 25 THIS ACT; TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-15 AND
 26 27-71-29, MISSISSIPPI CODE OF 1972, TO SET THE FEE FOR THE
 27 ISSUANCE OF A DIRECT SHIPPER'S PERMIT; TO LEVY A TAX UPON THE
 28 SHIPMENTS MADE BY A DIRECT SHIPPER; TO LEVY A TAX UPON THE WINE
 29 RECEIVE BY A PERMITTEE IN THIS STATE FROM A DIRECT SHIPPER; TO
 30 REQUIRE A CERTAIN AMOUNT OF THE TAXES LEVIED TO BE DEPOSITED INTO
 31 THE ALCOHOLISM TREATMENT AND REHABILITATION FUND; TO AMEND
 32 SECTIONS 67-1-41, 67-1-43, 67-1-45, 67-1-51, 67-1-53, 67-1-55,
 33 67-1-57, 67-1-73, 67-1-79, 97-31-47 AND 97-31-49, MISSISSIPPI CODE
 34 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

36 **SECTION 1.** The following provision shall be codified as

37 Section 67-1-42, Mississippi Code of 1972:

38 67-1-42. (1) Any person domiciled in a state outside the
 39 state of Mississippi that possesses a valid license in his state
 40 of domicile as an alcoholic beverage manufacturer, importer,
 41 wholesaler or retailer, or the equivalent, and who obtains a
 42 direct shipper's permit issued pursuant to this section, may sell
 43 and ship to any person in this state who holds a package

44 retailer's permit or an on-premises retailer's permit, any
45 manufactured wine that is not listed by the division as a part of
46 its inventory and distribution operation.

47 (2) In order to obtain a direct shipper's permit a person
48 shall:

49 (a) File an application with the commission in such
50 form and containing such information as required by the
51 regulations of the commission;

52 (b) Pay the required fee;

53 (c) Provide the commission a true copy of its current
54 out-of-state alcoholic beverage manufacturer, importer, wholesaler
55 or retailer license, or its equivalent; and

56 (d) Provide such other information as may be required
57 by the commission.

58 (3) After a person complies with the provisions of
59 subsection (1) of this section, the division shall conduct such
60 investigation as it considers necessary and shall make a
61 recommendation to the commission regarding the issuance of the
62 permit, and the commission may issue the permit to the applicant
63 if the provisions of this section and the applicable requirements
64 of this chapter are satisfied. Permits issued pursuant to this
65 section must be renewed annually.

66 (4) The holder of a direct shipper's permit shall offer to
67 sell to the commission at wholesale any manufactured wine that the
68 permittee ships into the State of Mississippi in excess of two
69 hundred and seventy (270) liters during any period of twelve (12)
70 consecutive months, and the division shall have the option of
71 listing the wine on its product inventory for sale.

72 (5) (a) A person twenty-one (21) years of age or older must
73 sign for wine shipped pursuant to this section prior to its
74 delivery and all shipping containers of manufactured wine shipped
75 pursuant to this section shall be conspicuously labeled as
76 follows:

77 "CONTAINS ALCOHOLIC BEVERAGES--ADULT (21 OR OLDER) SIGNATURE
78 REQUIRED FOR DELIVERY."

79 (b) Shipments of manufactured wine made into this state
80 pursuant to this section shall be made by a duly licensed carrier
81 and the holder of the direct shipper's permit shall ensure that
82 carriers comply with the signature requirement of this subsection.

83 (6) In addition to the requirements of subsection (1) of
84 this section, the holder of an out-of-state shipper's permit shall
85 maintain for at least three (3) years records that permit the
86 commission to ascertain the truthfulness of the information filed
87 pursuant to this section. The permittee shall allow the
88 commission to perform an audit of his records upon a reasonable
89 request.

90 (7) The holder of a direct shipper's permit shall be deemed
91 to have consented to the jurisdiction of the courts of this state,
92 the commission and any other state agency regarding the
93 enforcement of this section and any related law, rules or
94 regulations.

95 (8) The holder of a direct shipper's permit shall not ship:

96 (a) Any light wine or beer or any alcoholic beverage
97 other than manufactured wine; or

98 (b) Any manufactured wine that is listed by the
99 division as a part of its inventory and distribution operation.

100 (9) Any person who makes, participates in, transports,
101 imports or receives a shipment in violation of this section is
102 guilty of a misdemeanor. Each shipment shall constitute a
103 separate offense. If the person charged with a violation of this
104 section is the holder of a direct shipper's permit, suspension or
105 revocation of the permit as well as administrative fines
106 authorized by this chapter may be imposed.

107 **SECTION 2.** Section 27-71-5, Mississippi Code of 1972, is
108 amended as follows:

109 27-71-5. (1) Upon each person approved for a permit under
110 the provisions of the Alcoholic Beverage Control Law and
111 amendments thereto, there is levied and imposed for each location
112 for the privilege of engaging and continuing in this state in the
113 business authorized by such permit, an annual privilege license
114 tax in the amount provided in the following schedule:

115 (a) Except as otherwise provided in this subsection
116 (1), manufacturer's permit, Class 1, distiller's and/or
117 rectifier's..... \$4,500.00

118 (b) Manufacturer's permit, Class 2, wine manufacturer
119 \$1,800.00

120 (c) Manufacturer's permit, Class 3, native wine
121 manufacturer per ten thousand (10,000) gallons or part thereof
122 produced..... \$ 10.00

123 (d) Native wine retailer's permit..... \$ 50.00

124 (e) Package retailer's permit, each..... \$ 900.00

125 (f) On-premises retailer's permit, except for clubs and
126 common carriers, each..... \$ 450.00

127 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
128 for each additional Five Thousand Dollars (\$5,000.00), or fraction
129 thereof..... \$ 225.00

130 (g) On-premises retailer's permit for wine of more than
131 four percent (4%) alcohol by volume, but not more than twenty-one
132 percent (21%) alcohol by volume, each..... \$ 225.00

133 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
134 for each additional Five Thousand Dollars (\$5,000.00), or fraction
135 thereof..... \$ 225.00

136 (h) On-premises retailer's permit for clubs.. \$ 225.00

137 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
138 for each additional Five Thousand Dollars (\$5,000.00), or fraction
139 thereof..... \$ 225.00

140 (i) On-premises retailer's permit for common carriers,
141 per car, plane, or other vehicle..... \$ 120.00

142	(j) Solicitor's permit, regardless of any other	
143	provision of law, solicitor's permits shall be issued only in the	
144	discretion of the commission.....	\$ 100.00
145	(k) Filing fee for each application except for an	
146	employee identification card.....	\$ 25.00
147	(l) Temporary permit, Class 1, each.....	\$ 10.00
148	(m) Temporary permit, Class 2, each.....	\$ 50.00
149	On-premises purchases exceeding Five Thousand Dollars	
150	(\$5,000.00) and for each additional Five Thousand Dollars	
151	(\$5,000.00), or fraction thereof.....	\$ 225.00
152	(n) (i) Caterer's permit.....	\$ 600.00
153	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
154	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
155	thereof.....	\$ 250.00
156	(ii) Caterer's permit for holders of on-premises	
157	retailer's permit.....	\$ 150.00
158	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
159	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
160	thereof.....	\$ 250.00
161	(o) Research permit.....	\$ 100.00
162	(p) Filing fee for each application for an employee	
163	identification card.....	\$ 5.00
164	<u>(q) Direct shipper's permit.....</u>	<u>\$ 100.00</u>

165 If a person approved for a manufacturer's permit, Class 1,
166 distiller's permit produces a product with at least fifty-one
167 percent (51%) of the finished product by volume being obtained
168 from alcoholic fermentation of grapes, fruits, berries, honey
169 and/or vegetables grown and produced in Mississippi, and produces
170 all of such product by using not more than one (1) still having a
171 maximum capacity of one hundred fifty (150) liters, the annual
172 privilege license tax for such a permit shall be Ten Dollars
173 (\$10.00) per ten thousand (10,000) gallons or part thereof
174 produced. Bulk, concentrated or fortified ingredients used for

175 blending may be produced outside this state and used in producing
176 such a product.

177 In addition to the filing fee imposed by item (k) of this
178 subsection, a fee to be determined by the State Tax Commission may
179 be charged to defray costs incurred to process applications. Such
180 additional fees shall be paid into the State Treasury to the
181 credit of a special fund account, which is hereby created, and
182 expenditures therefrom shall be made only to defray the costs
183 incurred by the State Tax Commission in processing alcoholic
184 beverage applications. Any unencumbered balance remaining in the
185 special fund account on June 30 of any fiscal year shall lapse
186 into the State General Fund.

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

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

198 (2) There is imposed and shall be collected from each
199 permittee, except a common carrier, solicitor, holder of an
200 employee identification card, holder of a direct shipper's permit
201 or a temporary permittee, by the commission, an additional license
202 tax equal to the amounts imposed under subsection (1) of this
203 section for the privilege of doing business within any
204 municipality or county in which the licensee is located. If the
205 licensee is located within a municipality, the commission shall
206 pay the amount of additional license tax to the municipality, and
207 if outside a municipality the commission shall pay the additional

208 license tax to the county in which the licensee is located.
209 Payments by the commission to the respective local government
210 subdivisions shall be made once each month for any collections
211 during the preceding month.

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

218 (4) The number of permits issued by the commission shall not
219 be restricted or limited on a population basis; however, the
220 foregoing limitation shall not be construed to preclude the right
221 of the commission to refuse to issue a permit because of the
222 undesirability of the proposed location.

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

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

238 **SECTION 3.** Section 27-71-7, Mississippi Code of 1972, is
239 amended as follows:

240 27-71-7. (1) There is hereby levied and assessed an excise
241 tax upon each case of alcoholic beverages sold by the commission
242 to be collected from each retail licensee at the time of sale in
243 accordance with the following schedule:

- 244 (a) Distilled spirits..... \$2.50 per gallon
- 245 (b) Sparkling wine and champagne..... \$1.00 per gallon
- 246 (c) Other wines, including native
247 wines..... \$.35 per gallon

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

255 (b) Until June 30, 1987, the revenue derived from this
256 three percent (3%) markup shall be deposited by the division in
257 the State Treasury to the credit of the "Alcoholism Treatment and
258 Rehabilitation Fund," a special fund which is hereby created in
259 the State Treasury, and shall be used by the Division of Alcohol
260 and Drug Abuse of the State Department of Mental Health and public
261 or private centers or organizations solely for funding of
262 treatment and rehabilitation programs for alcoholics and alcohol
263 abusers which are sponsored by the division or public or private
264 centers or organizations in such amounts as the Legislature may
265 appropriate to the division for use by the division or public or
266 private centers or organizations for such programs. Any tax
267 revenue in the fund which is not encumbered at the end of the
268 fiscal year shall lapse to the General Fund. It is the intent of
269 the Legislature that the State Department of Mental Health shall
270 continue to seek funds from other sources and shall use the funds
271 appropriated for the purposes of this section and Section 27-71-29

272 to match all federal funds which may be available for alcoholism
273 treatment and rehabilitation.

274 From and after July 1, 1987, the revenue derived from this
275 three percent (3%) markup shall be deposited by the division in
276 the State Treasury to the credit of the "Mental Health Programs
277 Fund," a special fund which is hereby created in the State
278 Treasury and shall be used by the State Department of Mental
279 Health for the service programs of the department. Any revenue in
280 the "Alcoholism Treatment and Rehabilitation Fund" which is not
281 encumbered at the end of Fiscal Year 1987 shall be deposited to
282 the credit of the "Mental Health Programs Fund."

283 (3) (a) There is hereby levied and assessed upon the holder
284 of a direct shipper's permit, a tax in the amount of twenty-seven
285 percent (27%) of the sale price of each shipment of manufactured
286 wine made to the holder of a permit in this state.

287 (b) There is hereby levied and assessed upon holders of
288 package retailer's and on-premises retailer's permits that receive
289 shipments of manufactured wine pursuant to Section 67-1-42, a tax
290 equal to seven percent (7%) of the gross proceeds of the retail
291 sales of the wine. The tax levied pursuant to this paragraph
292 shall not constitute, in whole or in part, the sales tax levied
293 under Section 27-65-25 and no credit for the payment of the tax
294 levied pursuant to this section shall be allowed under Section
295 27-65-25.

296 (c) The holder of a direct shipper's permit shall file
297 a monthly report with the commission along with a copy of the
298 invoice for each shipment of manufactured wine and remit any taxes
299 due; however, no report shall be required for months in which no
300 shipments were made into this state. The report, together with
301 copies of the invoices and the payment of all taxes, shall be
302 filed with the commission not later than the twentieth of the
303 month following the month in which the shipment was made.

304 Permittees who fail to timely file and pay taxes as required by

305 this subsection shall pay a late fee in the amount of Fifty
306 Dollars (\$50.00), in addition to any other penalty authorized by
307 this article.

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

310 27-71-15. Except as otherwise provided in Section 67-9-1 for
311 the transportation of limited amounts of alcoholic beverages for
312 the use of an alcohol processing permittee and in Section 67-1-42
313 for the direct shipment of certain manufactured wines, if
314 transportation requires passage through a county which has not
315 authorized the sale of alcoholic beverages, such transportation
316 shall be by a sealed vehicle. Such seal shall remain unbroken
317 until the vehicle shall reach the place of business operated by
318 the permittee. The operator of any vehicle transporting alcoholic
319 beverages shall have in his possession an invoice issued by the
320 commission at the time of the wholesale sale covering the
321 merchandise transported by the vehicle. The commission is
322 authorized to issue regulations controlling the transportation of
323 alcoholic beverages.

324 When the restrictions imposed by this section and by the
325 regulation of the commission have not been violated, the person
326 transporting alcoholic beverages through a county wherein the sale
327 of alcoholic beverages is prohibited shall not be guilty of
328 unlawful possession and such merchandise shall be immune from
329 seizure.

330 **SECTION 5.** Section 27-71-29, Mississippi Code of 1972, is
331 amended as follows:

332 27-71-29. (1) All taxes levied by this article shall be
333 paid to the State Tax Commission in cash or by personal check,
334 cashier's check, bank exchange, post-office money order or express
335 money order and shall be deposited by the commission in the State
336 Treasury on the same day collected, but no remittances other than
337 cash shall be a final discharge of liability for the tax herein

338 imposed and levied unless and until it has been paid in cash to
339 the State Tax Commission.

340 (2) All taxes levied under Section 27-71-7(1) and received
341 by the commission under this article shall be paid into the
342 General Fund, and the three percent (3%) levied under Section
343 27-71-7(2) and received by the commission under this article shall
344 be paid into the special fund in the State Treasury designated as
345 the "Alcoholism Treatment and Rehabilitation Fund" as required by
346 law. Any funds derived from the sale of alcoholic beverages in
347 excess of inventory requirements shall be paid not less often than
348 annually into the General Fund.

349 (3) Except as otherwise provided in this subsection, all
350 taxes levied under Section 27-71-7(3) and received by the
351 commission under this article shall be paid into the General Fund.
352 Of the taxes levied under Section 27-71-7(3)(a) and received by
353 the commission, an amount equivalent to the three percent (3%)
354 levied under Section 27-71-7(2) shall be paid into the special
355 fund in the State Treasury designated as the "Alcoholism Treatment
356 and Rehabilitation Fund" as required by law. Any funds derived
357 from the sale of alcoholic beverages in excess of inventory
358 requirements shall be paid not less often than annually into the
359 General Fund.

360 **SECTION 6.** Section 67-1-41, Mississippi Code of 1972, is
361 amended as follows:

362 67-1-41. (1) The State Tax Commission is hereby created a
363 wholesale distributor and seller of alcoholic beverages, not
364 including malt liquors, within the State of Mississippi. It is
365 granted the sole right to import and sell such intoxicating
366 liquors at wholesale within the state, and no person who is
367 granted the right to sell, distribute or receive such liquors at
368 retail shall purchase any such intoxicating liquors from any
369 source other than the commission except as authorized in
370 subsections (4) and (9) of this section and Section 67-1-42,

371 provided that retailers and consumers may purchase native wines
372 directly from the producer. The commission may establish
373 warehouses, purchase intoxicating liquors in such quantities and
374 from such sources as it may deem desirable and sell the same to
375 authorized permittees within the state including, at the
376 discretion of the commission, any retail distributors operating
377 within any military post or qualified resort areas within the
378 boundaries of the state, keeping a correct and accurate record of
379 all such transactions and exercising such control over the
380 distribution of alcoholic beverages as seem right and proper in
381 keeping with the provisions or purposes of this chapter.

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

386 The commission is hereby authorized to use and to promulgate
387 rules for the affixing of identification stamps to each container
388 of alcoholic liquor.

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

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

399 (4) The commission may promulgate rules and regulations
400 which authorize on-premises retailers to purchase limited amounts
401 of alcoholic beverages from package retailers and for package
402 retailers to purchase limited amounts of alcoholic beverages from
403 other package retailers. The commission shall develop and provide

404 forms to be completed by the on-premises retailers and the package
405 retailers verifying the transaction. The completed forms shall be
406 forwarded to the commission within a period of time prescribed by
407 the commission.

408 (5) The commission may promulgate rules which authorize the
409 holder of a package retailer's permit to permit individual retail
410 purchasers of packages of alcoholic beverages to return, for
411 exchange, credit or refund, limited amounts of original sealed and
412 unopened packages of alcoholic beverages purchased by such
413 individual from the package retailer.

414 (6) The commission shall maintain all forms to be completed
415 by applicants necessary for licensure by the commission at all
416 district offices of the commission.

417 (7) The commission may promulgate rules which authorize the
418 manufacturer of an alcoholic beverage or wine to import, transport
419 and furnish or give a sample of alcoholic beverages or wines to
420 the holders of package retailer's permits, on-premises retailer's
421 permits, native wine retailer's permits and temporary retailer's
422 permits who have not previously purchased the brand of that
423 manufacturer from the commission. For each holder of the
424 designated permits, the manufacturer may furnish not more than
425 five hundred (500) milliliters of any brand of alcoholic beverage
426 and not more than three (3) liters of any brand of wine.

427 (8) The commission may promulgate rules disallowing open
428 product sampling of alcoholic beverages or wines by the holders of
429 package retailer's permits and permitting open product sampling of
430 alcoholic beverages by the holders of on-premises retailer's
431 permits. Permitted sample products shall be plainly identified
432 "sample" and the actual sampling must occur in the presence of the
433 manufacturer's representatives during the legal operating hours of
434 on-premises retailers.

435 (9) The commission may promulgate rules and regulations that
436 authorize the holder of a research permit to import and purchase

437 limited amounts of alcoholic beverages from importers, wineries
438 and distillers of alcoholic beverages or from the commission. The
439 commission shall develop and provide forms to be completed by the
440 research permittee verifying each transaction. The completed
441 forms shall be forwarded to the commission within a period of time
442 prescribed by the commission. The records and inventory of
443 alcoholic beverages shall be open to inspection at any time by the
444 Director of the Alcoholic Beverage Control Division or any duly
445 authorized agent.

446 **SECTION 7.** Section 67-1-43, Mississippi Code of 1972, is
447 amended as follows:

448 67-1-43. Any authorized retail distributor who shall
449 purchase or receive intoxicating liquor from any source except
450 from the commission, unless authorized by rules and regulations of
451 the commission promulgated under subsection (4) of Section
452 67-1-41, shall be guilty of a misdemeanor and upon conviction
453 thereof shall be punished by a fine of not less than Five Hundred
454 Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00),
455 to which may be added imprisonment in the county jail for not more
456 than six (6) months. Any authorization of such person to sell
457 intoxicating beverages may be revoked as provided by law.

458 This section shall not apply to any authorized retail
459 distributor who shall purchase native wines directly from the
460 producer or who purchases manufactured wine pursuant to Section
461 67-1-42.

462 **SECTION 8.** Section 67-1-45, Mississippi Code of 1972, is
463 amended as follows:

464 67-1-45. No manufacturer, rectifier, or distiller of
465 intoxicating liquor shall sell or attempt to sell any such
466 intoxicating liquor, except malt liquor, within the State of
467 Mississippi, except to the commission, or to the holder of a
468 research permit as provided in Section 67-1-41. However, the
469 holder of a direct shipper's permit may sell manufactured wine to

470 an authorized retail dealer and a producer of native wine may sell
471 native wines to the commission, authorized retail distributor, or
472 directly to consumers.

473 Any violation of this section by any manufacturer, rectifier,
474 or distiller shall be punished by a fine of not less than Five
475 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
476 (\$2,000.00), to which may be added imprisonment in the county jail
477 not to exceed six (6) months.

478 **SECTION 9.** Section 67-1-51, Mississippi Code of 1972, is
479 amended as follows:

480 67-1-51. (1) Permits which may be issued by the commission
481 shall be as follows:

482 (a) **Manufacturer's permit.** A manufacturer's permit
483 shall permit the manufacture, importation in bulk, bottling and
484 storage of alcoholic liquor and its distribution and sale to
485 manufacturers holding permits under this chapter in this state and
486 to persons outside the state who are authorized by law to purchase
487 the same, and to sell exclusively to the commission.

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

489 Class 1. Distiller's and/or rectifier's permit, which shall
490 authorize the holder thereof to operate a distillery for the
491 production of distilled spirits by distillation or redistillation
492 and/or to operate a rectifying plant for the purifying, refining,
493 mixing, blending, flavoring or reducing in proof of distilled
494 spirits and alcohol.

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

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

501 (b) **Package retailer's permit.** Except as otherwise
502 provided in this paragraph, a package retailer's permit shall

503 authorize the holder thereof to operate a store exclusively for
504 the sale at retail in original sealed and unopened packages of
505 alcoholic beverages, including native wines, not to be consumed on
506 the premises where sold. Alcoholic beverages shall not be sold by
507 any retailer in any package or container containing less than
508 fifty (50) milliliters by liquid measure. In addition to the sale
509 at retail of packages of alcoholic beverages, the holder of a
510 package retailer's permit is authorized to sell at retail
511 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
512 other beverages commonly used to mix with alcoholic beverages.
513 Nonalcoholic beverages sold by the holder of a package retailer's
514 permit shall not be consumed on the premises where sold.

515 (c) **On-premises retailer's permit.** An on-premises
516 retailer's permit shall authorize the sale of alcoholic beverages,
517 including native wines, for consumption on the licensed premises
518 only. Such a permit shall issue only to qualified hotels,
519 restaurants and clubs, and to common carriers with adequate
520 facilities for serving passengers. In resort areas, whether
521 inside or outside of a municipality, the commission may, in its
522 discretion, issue on-premises retailer's permits to such
523 establishments as it deems proper. An on-premises retailer's
524 permit when issued to a common carrier shall authorize the sale
525 and serving of alcoholic beverages aboard any licensed vehicle
526 while moving through any county of the state; however, the sale of
527 such alcoholic beverages shall not be permitted while such vehicle
528 is stopped in a county that has not legalized such sales.

529 (d) **Solicitor's permit.** A solicitor's permit shall
530 authorize the holder thereof to act as salesman for a manufacturer
531 or wholesaler holding a proper permit, to solicit on behalf of his
532 employer orders for alcoholic beverages, and to otherwise promote
533 his employer's products in a legitimate manner. Such a permit
534 shall authorize the representation of and employment by one (1)
535 principal only. However, the permittee may also, in the

536 discretion of the commission, be issued additional permits to
537 represent other principals. No such permittee shall buy or sell
538 alcoholic beverages for his own account, and no such beverage
539 shall be brought into this state in pursuance of the exercise of
540 such permit otherwise than through a permit issued to a wholesaler
541 or manufacturer in the state.

542 (e) **Native wine retailer's permit.** A native wine
543 retailer's permit shall be issued only to a holder of a Class 3
544 manufacturer's permit, and shall authorize the holder thereof to
545 make retail sales of native wines to consumers for on-premises
546 consumption or to consumers in originally sealed and unopened
547 containers at an establishment located on the premises of or in
548 the immediate vicinity of a native winery.

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

553 Temporary retailer's permits shall be of the following
554 classes:

555 Class 1. A temporary one-day permit may be issued to bona
556 fide nonprofit civic or charitable organizations authorizing the
557 sale of alcoholic beverages, including native wine, for
558 consumption on the premises described in the temporary permit
559 only. Class 1 permits may be issued only to applicants
560 demonstrating to the commission, by affidavit submitted ten (10)
561 days prior to the proposed date or such other time as the
562 commission may determine, that they meet the qualifications of
563 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
564 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
565 obtain all alcoholic beverages from package retailers located in
566 the county in which the temporary permit is issued. Alcoholic
567 beverages remaining in stock upon expiration of the temporary
568 permit may be returned by the permittee to the package retailer

569 for a refund of the purchase price upon consent of the package
570 retailer or may be kept by the permittee exclusively for personal
571 use and consumption, subject to all laws pertaining to the illegal
572 sale and possession of alcoholic beverages. The commission,
573 following review of the affidavit and the requirements of the
574 applicable statutes and regulations, may issue the permit.

575 Class 2. A temporary permit, not to exceed seventy (70)
576 days, may be issued to prospective permittees seeking to transfer
577 a permit authorized in either paragraph (b) or (c) of this
578 section. A Class 2 permit may be issued only to applicants
579 demonstrating to the commission, by affidavit, that they meet the
580 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
581 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
582 commission, following a preliminary review of the affidavit and
583 the requirements of the applicable statutes and regulations, may
584 issue the permit.

585 Class 2 temporary permittees must purchase their alcoholic
586 beverages directly from the commission or, with approval of the
587 commission, purchase the remaining stock of the previous
588 permittee. If the proposed applicant of a Class 1 or Class 2
589 temporary permit falsifies information contained in the
590 application or affidavit, the applicant shall never again be
591 eligible for a retail alcohol beverage permit and shall be subject
592 to prosecution for perjury.

593 (g) **Caterer's permit.** A caterer's permit shall permit
594 the purchase of alcoholic beverages by a person engaging in
595 business as a caterer and the resale of alcoholic beverages by
596 such person in conjunction with such catering business. No person
597 shall qualify as a caterer unless forty percent (40%) or more of
598 the revenue derived from such catering business shall be from the
599 serving of prepared food and not from the sale of alcoholic
600 beverages and unless such person has obtained a permit for such
601 business from the Department of Health. A caterer's permit shall

602 not authorize the sale of alcoholic beverages on the premises of
603 the person engaging in business as a caterer; however, the holder
604 of an on-premises retailer's permit may hold a caterer's permit.
605 All sales of alcoholic beverages by holders of a caterer's permit
606 shall be made at the location being catered by the caterer, and
607 such sales may be made only for consumption at the catered
608 location. Such sales shall be made pursuant to any other
609 conditions and restrictions which apply to sales made by
610 on-premises retail permittees. The holder of a caterer's permit
611 or his employees shall remain at the catered location as long as
612 alcoholic beverages are being sold pursuant to the permit issued
613 under this paragraph (g), and the permittee and employees at such
614 location shall each have personal identification cards issued by
615 the Alcoholic Beverage Control Division of the commission. No
616 unsold alcoholic beverages may be left at the catered location by
617 the permittee upon the conclusion of his business at that
618 location. Appropriate law enforcement officers and Alcoholic
619 Beverage Control Division personnel may enter a catered location
620 on private property in order to enforce laws governing the sale or
621 serving of alcoholic beverages.

622 (h) **Research Permit.** A research permit shall authorize
623 the holder thereof to operate a research facility for the
624 professional research of alcoholic beverages. Such permit shall
625 authorize the holder of the permit to import and purchase limited
626 amounts of alcoholic beverages from the commission or from
627 importers, wineries and distillers of alcoholic beverages for
628 professional research.

629 (i) **Alcohol processing permit.** An alcohol processing
630 permit shall authorize the holder thereof to purchase, transport
631 and possess alcoholic beverages for the exclusive use in cooking,
632 processing or manufacturing products which contain alcoholic
633 beverages as an integral ingredient. An alcohol processing permit
634 shall not authorize the sale of alcoholic beverages on the

635 premises of the person engaging in the business of cooking,
636 processing or manufacturing products which contain alcoholic
637 beverages. The amounts of alcoholic beverages allowed under an
638 alcohol processing permit shall be set by the commission.

639 (j) **Direct shipper's permit.** A direct shipper's permit
640 shall authorize an alcoholic beverage manufacturer, importer,
641 wholesaler or retailer located outside of the State of Mississippi
642 who is licensed in its state of domicile as an alcoholic beverage
643 manufacturer, importer, wholesaler or retailer, or the equivalent
644 thereof, to sell and ship manufactured wine to any holder of a
645 package retailer's or on-premise retailers permit pursuant to the
646 provisions of Section 67-1-42.

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

650 (3) Except as otherwise provided in this subsection, no
651 authority shall be granted to any person to manufacture, sell or
652 store for sale any intoxicating liquor as specified in this
653 chapter within four hundred (400) feet of any church, school,
654 kindergarten or funeral home. However, within an area zoned
655 commercial or business, such minimum distance shall be not less
656 than one hundred (100) feet.

657 A church or funeral home may waive the distance restrictions
658 imposed in this subsection in favor of allowing issuance by the
659 commission of a permit, pursuant to subsection (1) of this
660 section, to authorize activity relating to the manufacturing, sale
661 or storage of alcoholic beverages which would otherwise be
662 prohibited under the minimum distance criterion. Such waiver
663 shall be in written form from the owner, the governing body, or
664 the appropriate officer of the church or funeral home having the
665 authority to execute such a waiver, and the waiver shall be filed
666 with and verified by the commission before becoming effective.

667 The distance restrictions imposed in this subsection shall
668 not apply to the sale or storage of alcoholic beverages at a bed
669 and breakfast inn listed in the National Register of Historic
670 Places.

671 (4) No person, either individually or as a member of a firm,
672 partnership or association, or as a stockholder, officer or
673 director in a corporation, shall own or control any interest in
674 more than one (1) package retailer's permit, nor shall such
675 person's spouse, if living in the same household of such person,
676 any relative of such person, if living in the same household of
677 such person, or any other person living in the same household with
678 such person own any interest in any other package retailer's
679 permit.

680 **SECTION 10.** Section 67-1-53, Mississippi Code of 1972, is
681 amended as follows:

682 67-1-53. (1) Application for permits shall be in such form
683 and shall contain such information as shall be required by the
684 regulations of the commission; however, no regulation of the
685 commission shall require personal financial information from any
686 officer of a corporation applying for an on-premises retailer's
687 permit to sell alcoholic beverages unless such officer owns five
688 percent (5%) or more of the stock of such corporation.

689 (2) Every applicant for each type of permit authorized by
690 Section 67-1-51 shall give notice of such application by
691 publication for two (2) consecutive issues in a newspaper of
692 general circulation published in the city or town in which
693 applicant's place of business is located. However, in such
694 instances where no newspaper is published in the city or town,
695 then the same shall be published in a newspaper of general
696 circulation published in the county where the applicant's business
697 is located. If no newspaper is published in the county, the
698 notice shall be published in a qualified newspaper which is
699 published in the closest neighboring county and circulated in the

700 county of applicant's residence. Such notice shall be printed in
701 ten-point black face type and shall set forth the type of permit
702 to be applied for, the exact location of the place of business,
703 the name of the owner or owners thereof, and if operating under an
704 assumed name, the trade name together with the names of all
705 owners, and if a corporation, the names and titles of all
706 officers. The cost of such notice shall be borne by the
707 applicant.

708 (3) Each application or filing made under this section shall
709 include the Social Security number(s) of the applicant in
710 accordance with Section 93-11-64, Mississippi Code of 1972.

711 (4) This section shall not apply to persons applying for a
712 direct shipper's permit under Section 67-1-42.

713 **SECTION 11.** Section 67-1-55, Mississippi Code of 1972, is
714 amended as follows:

715 67-1-55. (1) No permit of any type shall be issued by the
716 commission until the applicant has first filed with the commission
717 a sworn statement disclosing all persons who are financially
718 involved in the operation of the business for which the permit is
719 sought. If an applicant is an individual, he will swear that he
720 owns one hundred percent (100%) of the business for which he is
721 seeking a permit. If the applicant is a partnership, all partners
722 and their addresses shall be disclosed and the extent of their
723 interest in said partnership shall be disclosed. If the applicant
724 is a corporation, the total stock in said corporation shall be
725 disclosed and each shareholder and his address and the amount of
726 stock in said corporation owned by him shall be disclosed. If the
727 applicant is a trust, the trustee and all beneficiaries and their
728 addresses shall be disclosed. If the applicant is a combination
729 of any of the above, all information required to be disclosed
730 above shall be required.

731 (2) All such disclosures shall be in writing and kept on
732 file at the commission's office and shall be available to the
733 public.

734 (3) Every applicant must, when applying for a renewal of his
735 permit, disclose any change in the ownership of said business or
736 any change in the beneficiaries of the income from said business.

737 (4) Any person who willfully fails to fully disclose the
738 above required information or who gives false information shall be
739 guilty of a misdemeanor and upon conviction thereof, shall be
740 fined a sum not exceeding Five Hundred Dollars (\$500.00) or
741 imprisoned for not more than one year, or both, and said person or
742 applicant shall never again be eligible for any permit pertaining
743 to alcoholic beverages.

744 (5) This section shall not apply to persons applying for a
745 direct shipper's permit under Section 67-1-42.

746 **SECTION 12.** Section 67-1-57, Mississippi Code of 1972, is
747 amended as follows:

748 67-1-57. Before a permit is issued the commission shall
749 satisfy itself:

750 (a) That the applicant, if an individual, or if a
751 partnership, each of the members of the partnership, or if a
752 corporation, each of its principal officers and directors, is of
753 good moral character and, in addition, enjoys a reputation of
754 being a peaceable, law-abiding citizen of the community in which
755 he resides, and is generally fit for the trust to be reposed in
756 him, is not less than twenty-one (21) years of age, and has not
757 been convicted of a felony in any state or federal court.

758 (b) That, except in the case of an application for a
759 solicitor's permit, the applicant is the true and actual owner of
760 the business for which the permit is desired, and that he intends
761 to carry on the business authorized for himself and not as the
762 agent of any other person, and that he intends to superintend in
763 person the management of said business or that he will designate a

764 manager to manage the business for him; except for managers
765 employed by the holder of a direct shipper's permit, any such
766 manager must be approved by the commission and must possess all of
767 the qualifications required of a permittee.

768 (c) That the applicant for a package retailer's permit,
769 if an individual, is a resident of the State of Mississippi. If
770 the applicant is a partnership, each member of the partnership
771 must be a resident of the state. If the applicant is a
772 corporation, the designated manager of the corporation must be a
773 resident of the state.

774 (d) That the place for which the permit is to be issued
775 is an appropriate one considering the character of the premises
776 and the surrounding neighborhood.

777 (e) That the place for which the permit is to be issued
778 is within the corporate limits of an incorporated municipality or
779 qualified resort area or club which comes within the provisions of
780 this chapter.

781 (f) That the applicant is not indebted to the state for
782 any taxes, fees or payment of penalties imposed by any law of the
783 State of Mississippi or by any rule or regulation of the
784 commission.

785 (g) That the applicant is not in the habit of using
786 alcoholic beverages to excess and is not physically or mentally
787 incapacitated, and that the applicant has the ability to read and
788 write the English language.

789 (h) That the commission does not believe and has no
790 reason to believe that the applicant will sell or knowingly permit
791 any agent, servant or employee to unlawfully sell liquor in a dry
792 area or in any other manner contrary to law.

793 (i) That the applicant is not residentially domiciled
794 with any person whose permit or license has been cancelled for
795 cause within the twelve (12) months next preceding the date of the
796 present application for a permit.

797 (j) That the commission has not, in the exercise of its
798 discretion which is reserved and preserved to it, refused to grant
799 such permits under the restrictions of this section, as well as
800 under any other pertinent provision of this chapter.

801 (k) That there are not sufficient legal reasons to deny
802 a permit on the ground that the premises for which the permit is
803 sought has previously been operated, used or frequented for any
804 purpose or in any manner that is lewd, immoral or offensive to
805 public decency. In the granting or withholding of any permit to
806 sell alcoholic beverages at retail, the commission in forming its
807 conclusions may give consideration to any recommendations made in
808 writing by the district or county attorney or county, circuit or
809 chancery judge of the county, or the sheriff of the county, or the
810 mayor or chief of police of an incorporated city or town wherein
811 the applicant proposes to conduct his business and to any
812 recommendations made by representatives of the commission.

813 (l) That the applicant and the applicant's key
814 employees, as determined by the commission, do not have a
815 disqualifying criminal record. In order to obtain a criminal
816 record history check, the applicant shall submit to the commission
817 a set of fingerprints from any local law enforcement agency for
818 each person for whom the records check is required. The
819 commission shall forward the fingerprints to the Mississippi
820 Department of Public Safety. If no disqualifying record is
821 identified at the state level, the Department of Public Safety
822 shall forward the fingerprints to the Federal Bureau of
823 Investigation for a national criminal history record check. Costs
824 for processing the set or sets of fingerprints shall be borne by
825 the applicant. The commission may waive the fingerprint
826 requirement in the case of an applicant for a direct shipper's
827 permit. The commission shall not deny employment to an employee
828 of the applicant prior to the identification of a disqualifying
829 record or other disqualifying information.

830 **SECTION 13.** Section 67-1-73, Mississippi Code of 1972, is
831 amended as follows:

832 67-1-73. (1) Every manufacturer, including native wine
833 producers, within or without the state, and every other shipper of
834 alcoholic beverages who sells any alcoholic beverage, including
835 native wine, within the state, shall, at the time of making such
836 sale, file with the commission a copy of the invoice of such sale
837 showing in detail the kind of alcoholic beverage sold, the
838 quantities of each, the size of the container and the weight of
839 the contents, the alcoholic content, and the name and address of
840 the person to whom sold.

841 (2) Every person transporting alcoholic beverages, including
842 native wine, within this state to a point within this state,
843 whether such transportation originates within or without this
844 state, shall, within five (5) days after delivery of such
845 shipment, furnish the commission a copy of the bill of lading or
846 receipt, showing the name or consignor or consignee, date, place
847 received, destination, and quantity of alcoholic beverages
848 delivered. Upon failure to comply with the provisions of this
849 section, such person shall be deemed guilty of a misdemeanor and
850 upon conviction thereof shall be fined in the sum of Fifty Dollars
851 (\$50.00) for each offense.

852 (3) The provisions of this section shall not apply to the
853 holder of a direct shipper's permit.

854 **SECTION 14.** Section 67-1-79, Mississippi Code of 1972, is
855 amended as follows:

856 67-1-79. No alcoholic beverage shall be sold by any
857 wholesaler to any retailer, nor shall any retailer purchase any
858 alcoholic beverage, except for cash. Each delivery of any
859 alcoholic beverage to a retail permittee shall be accompanied by
860 an invoice of sale or delivery slip which shall bear as its date
861 the date of delivery of such alcoholic beverage. The provisions

862 of this section shall not apply to sales made pursuant to Section
863 67-1-42.

864 **SECTION 15.** Section 97-31-47, Mississippi Code of 1972, is
865 amended as follows:

866 97-31-47. It shall be unlawful for any transportation
867 company, or any agent, employee, or officer of such company, or
868 any other person, or corporation to transport into or deliver in
869 this state in any manner or by any means any spirituous, vinous,
870 malt, or other intoxicating liquors or drinks, or for any such
871 person, company, or corporation to transport any spirituous, malt,
872 vinous, or intoxicating liquors or drinks from one place within
873 this state to another place within the state, or from one point
874 within this state to any point without the state, except in cases
875 where this chapter or Section 67-9-1 or 67-1-42 authorizes the
876 transportation.

877 **SECTION 16.** Section 97-31-49, Mississippi Code of 1972, is
878 amended as follows:

879 97-31-49. Except as otherwise provided in Section 67-1-42,
880 it shall be unlawful for any person, firm or corporation in this
881 state, in person, by letter, circular, or other printed or written
882 matter, or in any other manner, to solicit or take order in this
883 state for any liquors, bitters or drinks prohibited by the laws of
884 this state to be sold, bartered, or otherwise disposed of. The
885 inhibition of this section shall apply to such liquors, bitters
886 and drinks, whether the parties intend that the same shall be
887 shipped into this state from outside of the state, or from one
888 point in this state to another point in this state. If such order
889 be in writing, parole evidence thereof is admissible without
890 producing or accounting for the absence of the original; and the
891 taking or soliciting of such orders is within the inhibition of
892 this section, although the orders are subject to approval by some
893 other person, and no part of the price is paid, nor any part of
894 the goods is delivered when the order is taken.

895 **SECTION 17.** This act shall take effect and be in force from
896 and after July 1, 2005.