

By: Senator(s) Doxey, Dearing

To: Finance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2787

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 REQUIRE A CERTAIN AMOUNT OF  
29 THE TAXES LEVIED TO BE DEPOSITED INTO THE ALCOHOLISM TREATMENT AND  
30 REHABILITATION FUND; TO AMEND SECTIONS 67-1-41, 67-1-43, 67-1-45,  
31 67-1-51, 67-1-53, 67-1-55, 67-1-57, 67-1-73, 67-1-79, 97-31-47 AND  
32 97-31-49, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
33 RELATED PURPOSES.

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

35 **SECTION 1.** The following provision shall be codified as  
36 Section 67-1-42, Mississippi Code of 1972:

37 67-1-42. (1) Any person domiciled in a state outside the  
38 state of Mississippi that possesses a valid license in his state  
39 of domicile as an alcoholic beverage manufacturer, importer,  
40 wholesaler or retailer, or the equivalent, and who obtains a  
41 direct shipper's permit issued pursuant to this section, may sell  
42 and ship to any person in this state who holds a package

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

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

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

51 (b) Pay the required fee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

108           27-71-5. (1) Upon each person approved for a permit under  
 109 the provisions of the Alcoholic Beverage Control Law and  
 110 amendments thereto, there is levied and imposed for each location  
 111 for the privilege of engaging and continuing in this state in the  
 112 business authorized by such permit, an annual privilege license  
 113 tax in the amount provided in the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

141           (j) Solicitor's permit, regardless of any other  
142 provision of law, solicitor's permits shall be issued only in the  
143 discretion of the commission..... \$ 100.00

144           (k) Filing fee for each application except for an  
145 employee identification card..... \$ 25.00

146           (l) Temporary permit, Class 1, each..... \$ 10.00

147           (m) Temporary permit, Class 2, each..... \$ 50.00

148           On-premises purchases exceeding Five Thousand Dollars  
149 (\$5,000.00) and for each additional Five Thousand Dollars  
150 (\$5,000.00), or fraction thereof..... \$ 225.00

151           (n) (i) Caterer's permit..... \$ 600.00

152           On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
153 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
154 thereof..... \$ 250.00

155           (ii) Caterer's permit for holders of on-premises  
156 retailer's permit..... \$ 150.00

157           On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
158 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
159 thereof..... \$ 250.00

160           (o) Research permit..... \$ 100.00

161           (p) Filing fee for each application for an employee  
162 identification card..... \$ 5.00

163           (q) Direct shipper's permit..... \$ 100.00

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

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

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

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

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

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

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

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

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

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

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

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

239           27-71-7. (1) There is hereby levied and assessed an excise  
240 tax upon each case of alcoholic beverages sold by the commission  
241 to be collected from each retail licensee at the time of sale in  
242 accordance with the following schedule:

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

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

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



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

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

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

286 (b) The holder of a direct shipper's permit shall file  
287 a monthly report with the commission along with a copy of the  
288 invoice for each shipment of manufactured wine and remit any taxes  
289 due; however, no report shall be required for months in which no  
290 shipments were made into this state. The report, together with  
291 copies of the invoices and the payment of all taxes, shall be  
292 filed with the commission not later than the twentieth of the  
293 month following the month in which the shipment was made.

294 Permittees who fail to timely file and pay taxes as required by  
295 this subsection shall pay a late fee in the amount of Fifty  
296 Dollars (\$50.00), in addition to any other penalty authorized by  
297 this article.

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

300 27-71-15. Except as otherwise provided in Section 67-9-1 for  
301 the transportation of limited amounts of alcoholic beverages for  
302 the use of an alcohol processing permittee and in Section 67-1-42  
303 for the direct shipment of certain manufactured wines, if

304 transportation requires passage through a county which has not  
305 authorized the sale of alcoholic beverages, such transportation  
306 shall be by a sealed vehicle. Such seal shall remain unbroken  
307 until the vehicle shall reach the place of business operated by  
308 the permittee. The operator of any vehicle transporting alcoholic  
309 beverages shall have in his possession an invoice issued by the  
310 commission at the time of the wholesale sale covering the  
311 merchandise transported by the vehicle. The commission is  
312 authorized to issue regulations controlling the transportation of  
313 alcoholic beverages.

314 When the restrictions imposed by this section and by the  
315 regulation of the commission have not been violated, the person  
316 transporting alcoholic beverages through a county wherein the sale  
317 of alcoholic beverages is prohibited shall not be guilty of  
318 unlawful possession and such merchandise shall be immune from  
319 seizure.

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

322 27-71-29. (1) All taxes levied by this article shall be  
323 paid to the State Tax Commission in cash or by personal check,  
324 cashier's check, bank exchange, post-office money order or express  
325 money order and shall be deposited by the commission in the State  
326 Treasury on the same day collected, but no remittances other than  
327 cash shall be a final discharge of liability for the tax herein  
328 imposed and levied unless and until it has been paid in cash to  
329 the State Tax Commission.

330 (2) All taxes levied under Section 27-71-7(1) and received  
331 by the commission under this article shall be paid into the  
332 General Fund, and the three percent (3%) levied under Section  
333 27-71-7(2) and received by the commission under this article shall  
334 be paid into the special fund in the State Treasury designated as  
335 the "Alcoholism Treatment and Rehabilitation Fund" as required by  
336 law. Any funds derived from the sale of alcoholic beverages in

337 excess of inventory requirements shall be paid not less often than  
338 annually into the General Fund.

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

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

352 67-1-41. (1) The State Tax Commission is hereby created a  
353 wholesale distributor and seller of alcoholic beverages, not  
354 including malt liquors, within the State of Mississippi. It is  
355 granted the sole right to import and sell such intoxicating  
356 liquors at wholesale within the state, and no person who is  
357 granted the right to sell, distribute or receive such liquors at  
358 retail shall purchase any such intoxicating liquors from any  
359 source other than the commission except as authorized in  
360 subsections (4) and (9) of this section and Section 67-1-42,  
361 provided that retailers and consumers may purchase native wines  
362 directly from the producer. The commission may establish  
363 warehouses, purchase intoxicating liquors in such quantities and  
364 from such sources as it may deem desirable and sell the same to  
365 authorized permittees within the state including, at the  
366 discretion of the commission, any retail distributors operating  
367 within any military post or qualified resort areas within the  
368 boundaries of the state, keeping a correct and accurate record of  
369 all such transactions and exercising such control over the

370 distribution of alcoholic beverages as seem right and proper in  
371 keeping with the provisions or purposes of this chapter.

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

376 The commission is hereby authorized to use and to promulgate  
377 rules for the affixing of identification stamps to each container  
378 of alcoholic liquor.

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

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

389 (4) The commission may promulgate rules and regulations  
390 which authorize on-premises retailers to purchase limited amounts  
391 of alcoholic beverages from package retailers and for package  
392 retailers to purchase limited amounts of alcoholic beverages from  
393 other package retailers. The commission shall develop and provide  
394 forms to be completed by the on-premises retailers and the package  
395 retailers verifying the transaction. The completed forms shall be  
396 forwarded to the commission within a period of time prescribed by  
397 the commission.

398 (5) The commission may promulgate rules which authorize the  
399 holder of a package retailer's permit to permit individual retail  
400 purchasers of packages of alcoholic beverages to return, for  
401 exchange, credit or refund, limited amounts of original sealed and

402 unopened packages of alcoholic beverages purchased by such  
403 individual from the package retailer.

404 (6) The commission shall maintain all forms to be completed  
405 by applicants necessary for licensure by the commission at all  
406 district offices of the commission.

407 (7) The commission may promulgate rules which authorize the  
408 manufacturer of an alcoholic beverage or wine to import, transport  
409 and furnish or give a sample of alcoholic beverages or wines to  
410 the holders of package retailer's permits, on-premises retailer's  
411 permits, native wine retailer's permits and temporary retailer's  
412 permits who have not previously purchased the brand of that  
413 manufacturer from the commission. For each holder of the  
414 designated permits, the manufacturer may furnish not more than  
415 five hundred (500) milliliters of any brand of alcoholic beverage  
416 and not more than three (3) liters of any brand of wine.

417 (8) The commission may promulgate rules disallowing open  
418 product sampling of alcoholic beverages or wines by the holders of  
419 package retailer's permits and permitting open product sampling of  
420 alcoholic beverages by the holders of on-premises retailer's  
421 permits. Permitted sample products shall be plainly identified  
422 "sample" and the actual sampling must occur in the presence of the  
423 manufacturer's representatives during the legal operating hours of  
424 on-premises retailers.

425 (9) The commission may promulgate rules and regulations that  
426 authorize the holder of a research permit to import and purchase  
427 limited amounts of alcoholic beverages from importers, wineries  
428 and distillers of alcoholic beverages or from the commission. The  
429 commission shall develop and provide forms to be completed by the  
430 research permittee verifying each transaction. The completed  
431 forms shall be forwarded to the commission within a period of time  
432 prescribed by the commission. The records and inventory of  
433 alcoholic beverages shall be open to inspection at any time by the

434 Director of the Alcoholic Beverage Control Division or any duly  
435 authorized agent.

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

438 67-1-43. Any authorized retail distributor who shall  
439 purchase or receive intoxicating liquor from any source except  
440 from the commission, unless authorized by rules and regulations of  
441 the commission promulgated under subsection (4) of Section  
442 67-1-41, shall be guilty of a misdemeanor and upon conviction  
443 thereof shall be punished by a fine of not less than Five Hundred  
444 Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00),  
445 to which may be added imprisonment in the county jail for not more  
446 than six (6) months. Any authorization of such person to sell  
447 intoxicating beverages may be revoked as provided by law.

448 This section shall not apply to any authorized retail  
449 distributor who shall purchase native wines directly from the  
450 producer or who purchases manufactured wine pursuant to Section  
451 67-1-42.

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

454 67-1-45. No manufacturer, rectifier, or distiller of  
455 intoxicating liquor shall sell or attempt to sell any such  
456 intoxicating liquor, except malt liquor, within the State of  
457 Mississippi, except to the commission, or to the holder of a  
458 research permit as provided in Section 67-1-41. However, the  
459 holder of a direct shipper's permit may sell manufactured wine to  
460 an authorized retail dealer and a producer of native wine may sell  
461 native wines to the commission, authorized retail distributor, or  
462 directly to consumers.

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

466 (\$2,000.00), to which may be added imprisonment in the county jail  
467 not to exceed six (6) months.

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

470 67-1-51. (1) Permits which may be issued by the commission  
471 shall be as follows:

472 (a) **Manufacturer's permit.** A manufacturer's permit  
473 shall permit the manufacture, importation in bulk, bottling and  
474 storage of alcoholic liquor and its distribution and sale to  
475 manufacturers holding permits under this chapter in this state and  
476 to persons outside the state who are authorized by law to purchase  
477 the same, and to sell exclusively to the commission.

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

479 Class 1. Distiller's and/or rectifier's permit, which shall  
480 authorize the holder thereof to operate a distillery for the  
481 production of distilled spirits by distillation or redistillation  
482 and/or to operate a rectifying plant for the purifying, refining,  
483 mixing, blending, flavoring or reducing in proof of distilled  
484 spirits and alcohol.

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

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

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

499 at retail of packages of alcoholic beverages, the holder of a  
500 package retailer's permit is authorized to sell at retail  
501 corkscrews, wine glasses, soft drinks, ice, juices, mixers and  
502 other beverages commonly used to mix with alcoholic beverages.  
503 Nonalcoholic beverages sold by the holder of a package retailer's  
504 permit shall not be consumed on the premises where sold.

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

519           (d) **Solicitor's permit.** A solicitor's permit shall  
520 authorize the holder thereof to act as salesman for a manufacturer  
521 or wholesaler holding a proper permit, to solicit on behalf of his  
522 employer orders for alcoholic beverages, and to otherwise promote  
523 his employer's products in a legitimate manner. Such a permit  
524 shall authorize the representation of and employment by one (1)  
525 principal only. However, the permittee may also, in the  
526 discretion of the commission, be issued additional permits to  
527 represent other principals. No such permittee shall buy or sell  
528 alcoholic beverages for his own account, and no such beverage  
529 shall be brought into this state in pursuance of the exercise of  
530 such permit otherwise than through a permit issued to a wholesaler  
531 or manufacturer in the state.



532           (e) **Native wine retailer's permit.** A native wine  
533 retailer's permit shall be issued only to a holder of a Class 3  
534 manufacturer's permit, and shall authorize the holder thereof to  
535 make retail sales of native wines to consumers for on-premises  
536 consumption or to consumers in originally sealed and unopened  
537 containers at an establishment located on the premises of or in  
538 the immediate vicinity of a native winery.

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

543           Temporary retailer's permits shall be of the following  
544 classes:

545           Class 1. A temporary one-day permit may be issued to bona  
546 fide nonprofit civic or charitable organizations authorizing the  
547 sale of alcoholic beverages, including native wine, for  
548 consumption on the premises described in the temporary permit  
549 only. Class 1 permits may be issued only to applicants  
550 demonstrating to the commission, by affidavit submitted ten (10)  
551 days prior to the proposed date or such other time as the  
552 commission may determine, that they meet the qualifications of  
553 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57  
554 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
555 obtain all alcoholic beverages from package retailers located in  
556 the county in which the temporary permit is issued. Alcoholic  
557 beverages remaining in stock upon expiration of the temporary  
558 permit may be returned by the permittee to the package retailer  
559 for a refund of the purchase price upon consent of the package  
560 retailer or may be kept by the permittee exclusively for personal  
561 use and consumption, subject to all laws pertaining to the illegal  
562 sale and possession of alcoholic beverages. The commission,  
563 following review of the affidavit and the requirements of the  
564 applicable statutes and regulations, may issue the permit.

565           Class 2. A temporary permit, not to exceed seventy (70)  
566 days, may be issued to prospective permittees seeking to transfer  
567 a permit authorized in either paragraph (b) or (c) of this  
568 section. A Class 2 permit may be issued only to applicants  
569 demonstrating to the commission, by affidavit, that they meet the  
570 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),  
571 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The  
572 commission, following a preliminary review of the affidavit and  
573 the requirements of the applicable statutes and regulations, may  
574 issue the permit.

575           Class 2 temporary permittees must purchase their alcoholic  
576 beverages directly from the commission or, with approval of the  
577 commission, purchase the remaining stock of the previous  
578 permittee. If the proposed applicant of a Class 1 or Class 2  
579 temporary permit falsifies information contained in the  
580 application or affidavit, the applicant shall never again be  
581 eligible for a retail alcohol beverage permit and shall be subject  
582 to prosecution for perjury.

583           (g) **Caterer's permit.** A caterer's permit shall permit  
584 the purchase of alcoholic beverages by a person engaging in  
585 business as a caterer and the resale of alcoholic beverages by  
586 such person in conjunction with such catering business. No person  
587 shall qualify as a caterer unless forty percent (40%) or more of  
588 the revenue derived from such catering business shall be from the  
589 serving of prepared food and not from the sale of alcoholic  
590 beverages and unless such person has obtained a permit for such  
591 business from the Department of Health. A caterer's permit shall  
592 not authorize the sale of alcoholic beverages on the premises of  
593 the person engaging in business as a caterer; however, the holder  
594 of an on-premises retailer's permit may hold a caterer's permit.  
595 All sales of alcoholic beverages by holders of a caterer's permit  
596 shall be made at the location being catered by the caterer, and  
597 such sales may be made only for consumption at the catered

598 location. Such sales shall be made pursuant to any other  
599 conditions and restrictions which apply to sales made by  
600 on-premises retail permittees. The holder of a caterer's permit  
601 or his employees shall remain at the catered location as long as  
602 alcoholic beverages are being sold pursuant to the permit issued  
603 under this paragraph (g), and the permittee and employees at such  
604 location shall each have personal identification cards issued by  
605 the Alcoholic Beverage Control Division of the commission. No  
606 unsold alcoholic beverages may be left at the catered location by  
607 the permittee upon the conclusion of his business at that  
608 location. Appropriate law enforcement officers and Alcoholic  
609 Beverage Control Division personnel may enter a catered location  
610 on private property in order to enforce laws governing the sale or  
611 serving of alcoholic beverages.

612 (h) **Research Permit.** A research permit shall authorize  
613 the holder thereof to operate a research facility for the  
614 professional research of alcoholic beverages. Such permit shall  
615 authorize the holder of the permit to import and purchase limited  
616 amounts of alcoholic beverages from the commission or from  
617 importers, wineries and distillers of alcoholic beverages for  
618 professional research.

619 (i) **Alcohol processing permit.** An alcohol processing  
620 permit shall authorize the holder thereof to purchase, transport  
621 and possess alcoholic beverages for the exclusive use in cooking,  
622 processing or manufacturing products which contain alcoholic  
623 beverages as an integral ingredient. An alcohol processing permit  
624 shall not authorize the sale of alcoholic beverages on the  
625 premises of the person engaging in the business of cooking,  
626 processing or manufacturing products which contain alcoholic  
627 beverages. The amounts of alcoholic beverages allowed under an  
628 alcohol processing permit shall be set by the commission.

629 (j) **Direct shipper's permit.** A direct shipper's permit  
630 shall authorize an alcoholic beverage manufacturer, importer,

631 wholesaler or retailer located outside of the State of Mississippi  
632 who is licensed in its state of domicile as an alcoholic beverage  
633 manufacturer, importer, wholesaler or retailer, or the equivalent  
634 thereof, to sell and ship manufactured wine to any holder of a  
635 package retailer's or on-premise retailers permit pursuant to the  
636 provisions of Section 67-1-42.

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

640 (3) Except as otherwise provided in this subsection, no  
641 authority shall be granted to any person to manufacture, sell or  
642 store for sale any intoxicating liquor as specified in this  
643 chapter within four hundred (400) feet of any church, school,  
644 kindergarten or funeral home. However, within an area zoned  
645 commercial or business, such minimum distance shall be not less  
646 than one hundred (100) feet.

647 A church or funeral home may waive the distance restrictions  
648 imposed in this subsection in favor of allowing issuance by the  
649 commission of a permit, pursuant to subsection (1) of this  
650 section, to authorize activity relating to the manufacturing, sale  
651 or storage of alcoholic beverages which would otherwise be  
652 prohibited under the minimum distance criterion. Such waiver  
653 shall be in written form from the owner, the governing body, or  
654 the appropriate officer of the church or funeral home having the  
655 authority to execute such a waiver, and the waiver shall be filed  
656 with and verified by the commission before becoming effective.

657 The distance restrictions imposed in this subsection shall  
658 not apply to the sale or storage of alcoholic beverages at a bed  
659 and breakfast inn listed in the National Register of Historic  
660 Places.

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

664 more than one (1) package retailer's permit, nor shall such  
665 person's spouse, if living in the same household of such person,  
666 any relative of such person, if living in the same household of  
667 such person, or any other person living in the same household with  
668 such person own any interest in any other package retailer's  
669 permit.

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

672         67-1-53. (1) Application for permits shall be in such form  
673 and shall contain such information as shall be required by the  
674 regulations of the commission; however, no regulation of the  
675 commission shall require personal financial information from any  
676 officer of a corporation applying for an on-premises retailer's  
677 permit to sell alcoholic beverages unless such officer owns five  
678 percent (5%) or more of the stock of such corporation.

679         (2) Every applicant for each type of permit authorized by  
680 Section 67-1-51 shall give notice of such application by  
681 publication for two (2) consecutive issues in a newspaper of  
682 general circulation published in the city or town in which  
683 applicant's place of business is located. However, in such  
684 instances where no newspaper is published in the city or town,  
685 then the same shall be published in a newspaper of general  
686 circulation published in the county where the applicant's business  
687 is located. If no newspaper is published in the county, the  
688 notice shall be published in a qualified newspaper which is  
689 published in the closest neighboring county and circulated in the  
690 county of applicant's residence. Such notice shall be printed in  
691 ten-point black face type and shall set forth the type of permit  
692 to be applied for, the exact location of the place of business,  
693 the name of the owner or owners thereof, and if operating under an  
694 assumed name, the trade name together with the names of all  
695 owners, and if a corporation, the names and titles of all

696 officers. The cost of such notice shall be borne by the  
697 applicant.

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

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

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

705 67-1-55. (1) No permit of any type shall be issued by the  
706 commission until the applicant has first filed with the commission  
707 a sworn statement disclosing all persons who are financially  
708 involved in the operation of the business for which the permit is  
709 sought. If an applicant is an individual, he will swear that he  
710 owns one hundred percent (100%) of the business for which he is  
711 seeking a permit. If the applicant is a partnership, all partners  
712 and their addresses shall be disclosed and the extent of their  
713 interest in said partnership shall be disclosed. If the applicant  
714 is a corporation, the total stock in said corporation shall be  
715 disclosed and each shareholder and his address and the amount of  
716 stock in said corporation owned by him shall be disclosed. If the  
717 applicant is a trust, the trustee and all beneficiaries and their  
718 addresses shall be disclosed. If the applicant is a combination  
719 of any of the above, all information required to be disclosed  
720 above shall be required.

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

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

727 (4) Any person who willfully fails to fully disclose the  
728 above required information or who gives false information shall be

729 guilty of a misdemeanor and upon conviction thereof, shall be  
730 fined a sum not exceeding Five Hundred Dollars (\$500.00) or  
731 imprisoned for not more than one year, or both, and said person or  
732 applicant shall never again be eligible for any permit pertaining  
733 to alcoholic beverages.

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

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

738 67-1-57. Before a permit is issued the commission shall  
739 satisfy itself:

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

748 (b) That, except in the case of an application for a  
749 solicitor's permit, the applicant is the true and actual owner of  
750 the business for which the permit is desired, and that he intends  
751 to carry on the business authorized for himself and not as the  
752 agent of any other person, and that he intends to superintend in  
753 person the management of said business or that he will designate a  
754 manager to manage the business for him; except for managers  
755 employed by the holder of a direct shipper's permit, any such  
756 manager must be approved by the commission and must possess all of  
757 the qualifications required of a permittee.

758 (c) That the applicant for a package retailer's permit,  
759 if an individual, is a resident of the State of Mississippi. If  
760 the applicant is a partnership, each member of the partnership  
761 must be a resident of the state. If the applicant is a

762 corporation, the designated manager of the corporation must be a  
763 resident of the state.

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

767 (e) That the place for which the permit is to be issued  
768 is within the corporate limits of an incorporated municipality or  
769 qualified resort area or club which comes within the provisions of  
770 this chapter.

771 (f) That the applicant is not indebted to the state for  
772 any taxes, fees or payment of penalties imposed by any law of the  
773 State of Mississippi or by any rule or regulation of the  
774 commission.

775 (g) That the applicant is not in the habit of using  
776 alcoholic beverages to excess and is not physically or mentally  
777 incapacitated, and that the applicant has the ability to read and  
778 write the English language.

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

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

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

791 (k) That there are not sufficient legal reasons to deny  
792 a permit on the ground that the premises for which the permit is  
793 sought has previously been operated, used or frequented for any  
794 purpose or in any manner that is lewd, immoral or offensive to



795 public decency. In the granting or withholding of any permit to  
796 sell alcoholic beverages at retail, the commission in forming its  
797 conclusions may give consideration to any recommendations made in  
798 writing by the district or county attorney or county, circuit or  
799 chancery judge of the county, or the sheriff of the county, or the  
800 mayor or chief of police of an incorporated city or town wherein  
801 the applicant proposes to conduct his business and to any  
802 recommendations made by representatives of the commission.

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

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

822 67-1-73. (1) Every manufacturer, including native wine  
823 producers, within or without the state, and every other shipper of  
824 alcoholic beverages who sells any alcoholic beverage, including  
825 native wine, within the state, shall, at the time of making such  
826 sale, file with the commission a copy of the invoice of such sale  
827 showing in detail the kind of alcoholic beverage sold, the

828 quantities of each, the size of the container and the weight of  
829 the contents, the alcoholic content, and the name and address of  
830 the person to whom sold.

831 (2) Every person transporting alcoholic beverages, including  
832 native wine, within this state to a point within this state,  
833 whether such transportation originates within or without this  
834 state, shall, within five (5) days after delivery of such  
835 shipment, furnish the commission a copy of the bill of lading or  
836 receipt, showing the name or consignor or consignee, date, place  
837 received, destination, and quantity of alcoholic beverages  
838 delivered. Upon failure to comply with the provisions of this  
839 section, such person shall be deemed guilty of a misdemeanor and  
840 upon conviction thereof shall be fined in the sum of Fifty Dollars  
841 (\$50.00) for each offense.

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

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

846 67-1-79. No alcoholic beverage shall be sold by any  
847 wholesaler to any retailer, nor shall any retailer purchase any  
848 alcoholic beverage, except for cash. Each delivery of any  
849 alcoholic beverage to a retail permittee shall be accompanied by  
850 an invoice of sale or delivery slip which shall bear as its date  
851 the date of delivery of such alcoholic beverage. The provisions  
852 of this section shall not apply to sales made pursuant to Section  
853 67-1-42.

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

856 97-31-47. It shall be unlawful for any transportation  
857 company, or any agent, employee, or officer of such company, or  
858 any other person, or corporation to transport into or deliver in  
859 this state in any manner or by any means any spirituous, vinous,  
860 malt, or other intoxicating liquors or drinks, or for any such

861 person, company, or corporation to transport any spirituous, malt,  
862 vinous, or intoxicating liquors or drinks from one place within  
863 this state to another place within the state, or from one point  
864 within this state to any point without the state, except in cases  
865 where this chapter or Section 67-9-1 or 67-1-42 authorizes the  
866 transportation.

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

869         97-31-49. Except as otherwise provided in Section 67-1-42,  
870 it shall be unlawful for any person, firm or corporation in this  
871 state, in person, by letter, circular, or other printed or written  
872 matter, or in any other manner, to solicit or take order in this  
873 state for any liquors, bitters or drinks prohibited by the laws of  
874 this state to be sold, bartered, or otherwise disposed of. The  
875 inhibition of this section shall apply to such liquors, bitters  
876 and drinks, whether the parties intend that the same shall be  
877 shipped into this state from outside of the state, or from one  
878 point in this state to another point in this state. If such order  
879 be in writing, parole evidence thereof is admissible without  
880 producing or accounting for the absence of the original; and the  
881 taking or soliciting of such orders is within the inhibition of  
882 this section, although the orders are subject to approval by some  
883 other person, and no part of the price is paid, nor any part of  
884 the goods is delivered when the order is taken.

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