

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.