

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1124

1 AN ACT TO AMEND SECTIONS 27-71-5, 27-71-17, 67-1-37, 67-1-41  
2 AND 67-1-51, MISSISSIPPI CODE OF 1972, TO MAKE CERTAIN TECHNICAL  
3 REVISIONS TO THE LAWS GOVERNING THE SALE OF ALCOHOLIC BEVERAGES;  
4 TO CORRECT THE ALCOHOLIC CONTENT OF WINE AS STATED IN THE  
5 PROVISION THAT IMPOSES AN EXCISE TAX FOR AN ON-PREMISES RETAILER'S  
6 PERMIT FOR WINE; TO REMOVE REFERENCES TO EMPLOYEE IDENTIFICATION  
7 CARDS; TO REMOVE REFERENCES TO TAX AND IDENTIFICATION STAMPS; TO  
8 MAKE IT CLEAR THAT WHEN THE HOLDER OF AN ON-PREMISES RETAILER'S  
9 PERMIT OR AN AFFILIATE OF THE HOLDER ALSO HOLDS A CATERER'S  
10 PERMIT, THE CATERER'S PERMIT SHALL NOT AUTHORIZE THE SERVICE OF  
11 ALCOHOLIC BEVERAGES ON A CONSISTENT, RECURRING BASIS AT A  
12 SEPARATE, FIXED LOCATION OWNED OR OPERATED BY THE CATERER,  
13 ON-PREMISES RETAILER OR AFFILIATED ENTITY; TO PROVIDE THAT A  
14 CATERER'S PERMIT AUTHORIZES THE HOLDER TO SERVE ALCOHOLIC  
15 BEVERAGES ANYWHERE WITHIN A COUNTY OR JUDICIAL DISTRICT THAT HAS  
16 VOTED TO COME OUT FROM UNDER THE DRY LAWS; TO AMEND SECTION  
17 67-1-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL  
18 SECTIONS 27-71-19 AND 67-5-15, MISSISSIPPI CODE OF 1972, WHICH  
19 REQUIRE SUPPLIERS SELLING ALCOHOLIC BEVERAGES TO THE STATE TAX  
20 COMMISSION TO AFFIX REVENUE IDENTIFICATION STAMPS TO ALCOHOLIC  
21 BEVERAGE CONTAINERS AND REQUIRE PRODUCERS OF NATIVE WINE TO AFFIX  
22 A TAX STAMP TO CONTAINERS OF NATIVE WINE; TO REPEAL SECTIONS  
23 27-71-201 AND 27-71-203, MISSISSIPPI CODE OF 1972, WHICH IMPOSE A  
24 SURCHARGE ON SALES OF ALCOHOLIC BEVERAGES TO BE DEPOSITED INTO THE  
25 ABC WAREHOUSE CONSTRUCTION FUND AND AUTHORIZE THE STATE TAX  
26 COMMISSION TO BORROW MONEY TO FUND CONSTRUCTION OF THE ABC  
27 WAREHOUSE; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 27-71-5, Mississippi Code of 1972, is  
30 amended as follows:

31 27-71-5. (1) Upon each person approved for a permit under  
32 the provisions of the Alcoholic Beverage Control Law and  
33 amendments thereto, there is levied and imposed for each location  
34 for the privilege of engaging and continuing in this state in the  
35 business authorized by such permit, an annual privilege license  
36 tax in the amount provided in the following schedule:

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

40	(b) Manufacturer's permit, Class 2, wine manufacturer	
41	.....	\$1,800.00
42	(c) Manufacturer's permit, Class 3, native wine	
43	manufacturer per ten thousand (10,000) gallons or part thereof	
44	produced.....	\$ 10.00
45	(d) Native wine retailer's permit.....	\$ 50.00
46	(e) Package retailer's permit, each.....	\$ 900.00
47	(f) On-premises retailer's permit, except for clubs and	
48	common carriers, each.....	\$ 450.00
49	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
50	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
51	thereof.....	\$ 225.00
52	(g) On-premises retailer's permit for wine of more than	
53	<u>five</u> percent ( <u>5%</u> ) alcohol by <u>weight</u> , but not more than twenty-one	
54	percent (21%) alcohol by <u>weight</u> , each.....	\$ 225.00
55	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
56	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
57	thereof.....	\$ 225.00
58	(h) On-premises retailer's permit for clubs..	\$ 225.00
59	On purchases exceeding Five Thousand Dollars (\$5,000.00)	
60	and for each additional Five Thousand Dollars (\$5,000.00), or	
61	fraction thereof.....	\$ 225.00
62	(i) On-premises retailer's permit for common carriers,	
63	per car, plane, or other vehicle.....	\$ 120.00
64	(j) Solicitor's permit, regardless of any other	
65	provision of law, solicitor's permits shall be issued only in the	
66	discretion of the commission.....	\$ 100.00
67	(k) Filing fee for each application except for an	
68	employee identification card.....	\$ 25.00
69	(l) Temporary permit, Class 1, each.....	\$ 10.00
70	(m) Temporary permit, Class 2, each.....	\$ 50.00

71           On-premises purchases exceeding Five Thousand Dollars  
72   (\$5,000.00) and for each additional Five Thousand Dollars  
73   (\$5,000.00), or fraction thereof..... \$ 225.00  
74           (n) (i) Caterer's permit..... \$ 600.00  
75           On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
76   for each additional Five Thousand Dollars (\$5,000.00), or fraction  
77   thereof..... \$ 250.00  
78           (ii) Caterer's permit for holders of on-premises  
79   retailer's permit..... \$ 150.00  
80           On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
81   for each additional Five Thousand Dollars (\$5,000.00), or fraction  
82   thereof..... \$ 250.00  
83           (o) Research permit..... \$ 100.00

84   \* \* \*

85           If a person approved for a manufacturer's permit, Class 1,  
86   distiller's permit produces a product with at least fifty-one  
87   percent (51%) of the finished product by volume being obtained  
88   from alcoholic fermentation of grapes, fruits, berries, honey  
89   and/or vegetables grown and produced in Mississippi, and produces  
90   all of the product by using not more than one (1) still having a  
91   maximum capacity of one hundred fifty (150) liters, the annual  
92   privilege license tax for such a permit shall be Ten Dollars  
93   (\$10.00) per ten thousand (10,000) gallons or part thereof  
94   produced. Bulk, concentrated or fortified ingredients used for  
95   blending may be produced outside this state and used in producing  
96   such a product.

97           In addition to the filing fee imposed by item (k) of this  
98   subsection, a fee to be determined by the State Tax Commission may  
99   be charged to defray costs incurred to process applications. The  
100   additional fees shall be paid into the State Treasury to the  
101   credit of a special fund account, which is hereby created, and  
102   expenditures therefrom shall be made only to defray the costs  
103   incurred by the State Tax Commission in processing alcoholic

104 beverage applications. Any unencumbered balance remaining in the  
105 special fund account on June 30 of any fiscal year shall lapse  
106 into the State General Fund.

107 All privilege taxes \* \* \* imposed by this section shall be  
108 paid in advance of doing business. The additional privilege tax  
109 imposed for an on-premises retailer's permit based upon purchases  
110 shall be due and payable on demand.

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

118 (2) There is imposed and shall be collected from each  
119 permittee, except a common carrier, solicitor \* \* \* or a temporary  
120 permittee, by the commission, an additional license tax equal to  
121 the amounts imposed under subsection (1) of this section for the  
122 privilege of doing business within any municipality or county in  
123 which the licensee is located. If the licensee is located within  
124 a municipality, the commission shall pay the amount of additional  
125 license tax to the municipality, and if outside a municipality the  
126 commission shall pay the additional license tax to the county in  
127 which the licensee is located. Payments by the commission to the  
128 respective local government subdivisions shall be made once each  
129 month for any collections during the preceding month.

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

136 (4) The number of permits issued by the commission shall not  
137 be restricted or limited on a population basis; however, the  
138 foregoing limitation shall not be construed to preclude the right  
139 of the commission to refuse to issue a permit because of the  
140 undesirability of the proposed location.

141 (5) If any person shall engage or continue in any business  
142 which is taxable under this section without having paid the tax as  
143 provided in this section, the person shall be liable for the full  
144 amount of the tax plus a penalty thereon equal to the amount  
145 thereof, and, in addition, shall be punished by a fine of not more  
146 than One Thousand Dollars (\$1,000.00), or by imprisonment in the  
147 county jail for a term of not more than six (6) months, or by both  
148 such fine and imprisonment, in the discretion of the court.

149 (6) It shall be unlawful for any person to consume alcoholic  
150 beverages on the premises of any hotel restaurant, restaurant,  
151 club or the interior of any public place defined in Chapter 1,  
152 Title 67, Mississippi Code of 1972, when the owner or manager  
153 thereof displays in several conspicuous places inside the  
154 establishment and at the entrances of the establishment a sign  
155 containing the following language: NO ALCOHOLIC BEVERAGES  
156 ALLOWED.

157 **SECTION 2.** Section 27-71-17, Mississippi Code of 1972, is  
158 amended as follows:

159 27-71-17. It shall be unlawful for any person to counterfeit  
160 or reuse any label prescribed by the commission and used to  
161 identify alcoholic beverages sold at wholesale by the commission  
162 and, upon conviction, the person shall be punished by a fine of  
163 not more than Five Thousand Dollars (\$5,000.00), or by  
164 imprisonment in the State Penitentiary for not less than one (1)  
165 year, nor more than ten (10) years, or \* \* \* both \* \* \*.

166 **SECTION 3.** Section 67-1-37, Mississippi Code of 1972, is  
167 amended as follows:

168 **[Until July 1, 2007, this section will read as follows:]**

169           67-1-37. The State Tax Commission, under its duties and  
170 powers with respect to the Alcoholic Beverage Control Division  
171 therein, shall have the following powers, functions and duties:

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

176           (b) To revoke, suspend or cancel, for violation of or  
177 noncompliance with the provisions of this chapter, or the law  
178 governing the production and sale of native wines, or any lawful  
179 rules and regulations of the commission issued hereunder, or for  
180 other sufficient cause, any permit issued by it under the  
181 provisions of this chapter; however, no such permit shall be  
182 revoked, suspended or cancelled except after a hearing of which  
183 the permit holder shall have been given reasonable notice and an  
184 opportunity to be heard. The board shall be authorized to suspend  
185 the permit of any permit holder for being out of compliance with  
186 an order for support, as defined in Section 93-11-153. The  
187 procedure for suspension of a permit for being out of compliance  
188 with an order for support, and the procedure for the reissuance or  
189 reinstatement of a permit suspended for that purpose, and the  
190 payment of any fees for the reissuance or reinstatement of a  
191 permit suspended for that purpose, shall be governed by Section  
192 93-11-157 or Section 93-11-163, as the case may be. If there is  
193 any conflict between any provision of Section 93-11-157 or Section  
194 93-11-163 and any provision of this chapter, the provisions of  
195 Section 93-11-157 or Section 93-11-163, as the case may be, shall  
196 control.

197           (c) To prescribe forms of permits and applications for  
198 permits and of all reports which it deems necessary in  
199 administering this chapter.

200           (d) To fix standards, not in conflict with those  
201 prescribed by any law of this state or of the United States, to

202 secure the use of proper ingredients and methods of manufacture of  
203 alcoholic beverages.

204 (e) To issue rules regulating the advertising of  
205 alcoholic beverages in the state in any class of media and  
206 permitting advertising of the retail price of alcoholic beverages.

207 (f) To issue reasonable rules and regulations, not  
208 inconsistent with the federal laws or regulations, requiring  
209 informative labeling of all alcoholic beverages offered for sale  
210 within this state and providing for the standards of fill and  
211 shapes of retail containers of alcoholic beverages; however, such  
212 containers shall not contain less than fifty (50) milliliters by  
213 liquid measure.

214 (g) Subject to the provisions of subsection (3) of  
215 Section 67-1-51, to issue rules and regulations governing the  
216 issuance of retail permits for premises located near or around  
217 schools, colleges, universities, churches and other public  
218 institutions, and specifying the distances therefrom within which  
219 no such permit shall be issued. The Alcoholic Beverage Control  
220 Division shall not allow the sale or consumption of alcoholic  
221 beverages in or on the campus of any public school or college, and  
222 no alcoholic beverage shall be for sale or consumed at any public  
223 athletic event at any grammar or high school or any college.

224 (h) To adopt and promulgate, repeal and amend, such  
225 rules, regulations, standards, requirements and orders, not  
226 inconsistent with this chapter or any law of this state or of the  
227 United States, as it deems necessary to control the manufacture,  
228 importation, transportation, distribution and sale of alcoholic  
229 liquor, whether intended for beverage or nonbeverage use in a  
230 manner not inconsistent with the provisions of this chapter or any  
231 other statute, including the native wine laws.

232 (i) To call upon other administrative departments of  
233 the state, county and municipal governments, county and city  
234 police departments and upon prosecuting officers for such

235 information and assistance as it may deem necessary in the  
236 performance of its duties.

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

243 (k) To inspect, or cause to be inspected, any premises  
244 where alcoholic liquors intended for sale are manufactured,  
245 stored, distributed or sold, and to examine or cause to be  
246 examined all books and records pertaining to the business  
247 conducted therein.

248 (l) In the conduct of any hearing authorized to be held  
249 by the commission, to hear testimony and take proof material for  
250 its information in the discharge of its duties under this chapter;  
251 to issue subpoenas, which shall be effective in any part of this  
252 state, requiring the attendance of witnesses and the production of  
253 books and records; to administer or cause to be administered  
254 oaths; and to examine or cause to be examined any witness under  
255 oath. Any court of record, or any judge thereof, may by order  
256 duly entered require the attendance of witnesses and the  
257 production of relevant books subpoenaed by the commission, and  
258 such court or judge may compel obedience to its or his order by  
259 proceedings for contempt.

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

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



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

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

280       \* \* \*

281           (q) To enforce the provisions made unlawful by Sections  
282 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

283           **[From and after July 1, 2007, this section will read as**  
284 **follows:]**

285           67-1-37. The State Tax Commission, under its duties and  
286 powers with respect to the Alcoholic Beverage Control Division  
287 therein, shall have the following powers, functions and duties:

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

292           (b) To revoke, suspend or cancel, for violation of or  
293 noncompliance with the provisions of this chapter, or the law  
294 governing the production and sale of native wines, or any lawful  
295 rules and regulations of the commission issued hereunder, or for  
296 other sufficient cause, any permit issued by it under the  
297 provisions of this chapter; however, no such permit shall be  
298 revoked, suspended or cancelled except after a hearing of which  
299 the permit holder shall have been given reasonable notice and an  
300 opportunity to be heard. The board shall be authorized to suspend

301 the permit of any permit holder for being out of compliance with  
302 an order for support, as defined in Section 93-11-153. The  
303 procedure for suspension of a permit for being out of compliance  
304 with an order for support, and the procedure for the reissuance or  
305 reinstatement of a permit suspended for that purpose, and the  
306 payment of any fees for the reissuance or reinstatement of a  
307 permit suspended for that purpose, shall be governed by Section  
308 93-11-157 or 93-11-163, as the case may be. If there is any  
309 conflict between any provision of Section 93-11-157 or 93-11-163  
310 and any provision of this chapter, the provisions of Section  
311 93-11-157 or 93-11-163, as the case may be, shall control.

312 (c) To prescribe forms of permits and applications for  
313 permits and of all reports which it deems necessary in  
314 administering this chapter.

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

319 (e) To issue rules regulating the advertising of  
320 alcoholic beverages in the state in any class of media and  
321 permitting advertising of the retail price of alcoholic beverages.

322 (f) To issue reasonable rules and regulations, not  
323 inconsistent with the federal laws or regulations, requiring  
324 informative labeling of all alcoholic beverages offered for sale  
325 within this state and providing for the standards of fill and  
326 shapes of retail containers of alcoholic beverages; however, such  
327 containers shall not contain less than fifty (50) milliliters by  
328 liquid measure.

329 (g) Subject to the provisions of subsection (3) of  
330 Section 67-1-51, to issue rules and regulations governing the  
331 issuance of retail permits for premises located near or around  
332 schools, colleges, universities, churches and other public  
333 institutions, and specifying the distances therefrom within which

334 no such permit shall be issued. The Alcoholic Beverage Control  
335 Division shall not allow the sale or consumption of alcoholic  
336 beverages in or on the campus of any public school or college, and  
337 no alcoholic beverage shall be for sale or consumed at any public  
338 athletic event at any grammar or high school or any college.

339 (h) To adopt and promulgate, repeal and amend, such  
340 rules, regulations, standards, requirements and orders, not  
341 inconsistent with this chapter or any law of this state or of the  
342 United States, as it deems necessary to control the manufacture,  
343 importation, transportation, distribution and sale of alcoholic  
344 liquor, whether intended for beverage or nonbeverage use in a  
345 manner not inconsistent with the provisions of this chapter or any  
346 other statute, including the native wine laws.

347 (i) To call upon other administrative departments of  
348 the state, county and municipal governments, county and city  
349 police departments and upon prosecuting officers for such  
350 information and assistance as it may deem necessary in the  
351 performance of its duties.

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

358 (k) To inspect, or cause to be inspected, any premises  
359 where alcoholic liquors intended for sale are manufactured,  
360 stored, distributed or sold, and to examine or cause to be  
361 examined all books and records pertaining to the business  
362 conducted therein.

363 (l) In the conduct of any hearing authorized to be held  
364 by the commission, to hear testimony and take proof material for  
365 its information in the discharge of its duties under this chapter;  
366 to issue subpoenas, which shall be effective in any part of this

367 state, requiring the attendance of witnesses and the production of  
368 books and records; to administer or cause to be administered  
369 oaths; and to examine or cause to be examined any witness under  
370 oath. Any court of record, or any judge thereof, may by order  
371 duly entered require the attendance of witnesses and the  
372 production of relevant books subpoenaed by the commission, and  
373 such court or judge may compel obedience to its or his order by  
374 proceedings for contempt.

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

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

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

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

395 \* \* \*

396 **SECTION 4.** Section 67-1-41, Mississippi Code of 1972, is  
397 amended as follows:

398 67-1-41. (1) The State Tax Commission is hereby created a  
399 wholesale distributor and seller of alcoholic beverages, not

400 including malt liquors, within the State of Mississippi. It is  
401 granted the sole right to import and sell \* \* \* intoxicating  
402 liquors at wholesale within the state, and no person who is  
403 granted the right to sell, distribute or receive intoxicating  
404 liquors at retail shall purchase any \* \* \* intoxicating liquors  
405 from any source other than the commission except as authorized in  
406 subsections (4) and (9), provided that retailers and consumers may  
407 purchase native wines directly from the producer. The commission  
408 may establish warehouses, purchase intoxicating liquors in such  
409 quantities and from such sources as it may deem desirable and sell  
410 the intoxicating liquors to authorized permittees within the state  
411 including, at the discretion of the commission, any retail  
412 distributors operating within any military post or qualified  
413 resort areas within the boundaries of the state, keeping a correct  
414 and accurate record of all such transactions and exercising such  
415 control over the distribution of alcoholic beverages as seem right  
416 and proper in keeping with the provisions or purposes of this  
417 chapter.

418 \* \* \*

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

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

429 (4) The commission may promulgate rules and regulations  
430 which authorize on-premises retailers to purchase limited amounts  
431 of alcoholic beverages from package retailers and for package  
432 retailers to purchase limited amounts of alcoholic beverages from

433 other package retailers. The commission shall develop and provide  
434 forms to be completed by the on-premises retailers and the package  
435 retailers verifying the transaction. The completed forms shall be  
436 forwarded to the commission within a period of time prescribed by  
437 the commission.

438 (5) The commission may promulgate rules which authorize the  
439 holder of a package retailer's permit to permit individual retail  
440 purchasers of packages of alcoholic beverages to return, for  
441 exchange, credit or refund, limited amounts of original sealed and  
442 unopened packages of alcoholic beverages purchased by the  
443 individual from the package retailer.

444 (6) The commission shall maintain all forms to be completed  
445 by applicants necessary for licensure by the commission at all  
446 district offices of the commission.

447 (7) The commission may promulgate rules which authorize the  
448 manufacturer of an alcoholic beverage or wine to import, transport  
449 and furnish or give a sample of alcoholic beverages or wines to  
450 the holders of package retailer's permits, on-premises retailer's  
451 permits, native wine retailer's permits and temporary retailer's  
452 permits who have not previously purchased the brand of that  
453 manufacturer from the commission. For each holder of the  
454 designated permits, the manufacturer may furnish not more than  
455 five hundred (500) milliliters of any brand of alcoholic beverage  
456 and not more than three (3) liters of any brand of wine.

457 (8) The commission may promulgate rules disallowing open  
458 product sampling of alcoholic beverages or wines by the holders of  
459 package retailer's permits and permitting open product sampling of  
460 alcoholic beverages by the holders of on-premises retailer's  
461 permits. Permitted sample products shall be plainly identified  
462 "sample" and the actual sampling must occur in the presence of the  
463 manufacturer's representatives during the legal operating hours of  
464 on-premises retailers.

465 (9) The commission may promulgate rules and regulations that  
466 authorize the holder of a research permit to import and purchase  
467 limited amounts of alcoholic beverages from importers, wineries  
468 and distillers of alcoholic beverages or from the commission. The  
469 commission shall develop and provide forms to be completed by the  
470 research permittee verifying each transaction. The completed  
471 forms shall be forwarded to the commission within a period of time  
472 prescribed by the commission. The records and inventory of  
473 alcoholic beverages shall be open to inspection at any time by the  
474 Director of the Alcoholic Beverage Control Division or any duly  
475 authorized agent.

476 **SECTION 5.** Section 67-1-51, Mississippi Code of 1972, is  
477 amended as follows:

478 67-1-51. (1) Permits which may be issued by the commission  
479 shall be as follows:

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

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

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

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

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

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

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

527           (d) **Solicitor's permit.** A solicitor's permit shall  
528 authorize the holder thereof to act as salesman for a manufacturer



529 or wholesaler holding a proper permit, to solicit on behalf of his  
530 employer orders for alcoholic beverages, and to otherwise promote  
531 his employer's products in a legitimate manner. Such a permit  
532 shall authorize the representation of and employment by one (1)  
533 principal only. However, the permittee may also, in the  
534 discretion of the commission, be issued additional permits to  
535 represent other principals. No such permittee shall buy or sell  
536 alcoholic beverages for his own account, and no such beverage  
537 shall be brought into this state in pursuance of the exercise of  
538 such permit otherwise than through a permit issued to a wholesaler  
539 or manufacturer in the state.

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

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

551 Temporary retailer's permits shall be of the following  
552 classes:

553 Class 1. A temporary one-day permit may be issued to bona  
554 fide nonprofit civic or charitable organizations authorizing the  
555 sale of alcoholic beverages, including native wine, for  
556 consumption on the premises described in the temporary permit  
557 only. Class 1 permits may be issued only to applicants  
558 demonstrating to the commission, by affidavit submitted ten (10)  
559 days prior to the proposed date or such other time as the  
560 commission may determine, that they meet the qualifications of  
561 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57

562 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
563 obtain all alcoholic beverages from package retailers located in  
564 the county in which the temporary permit is issued. Alcoholic  
565 beverages remaining in stock upon expiration of the temporary  
566 permit may be returned by the permittee to the package retailer  
567 for a refund of the purchase price upon consent of the package  
568 retailer or may be kept by the permittee exclusively for personal  
569 use and consumption, subject to all laws pertaining to the illegal  
570 sale and possession of alcoholic beverages. The commission,  
571 following review of the affidavit and the requirements of the  
572 applicable statutes and regulations, may issue the permit.

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

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

591 (g) **Caterer's permit.** A caterer's permit shall permit  
592 the purchase of alcoholic beverages by a person engaging in  
593 business as a caterer and the resale of alcoholic beverages by  
594 such person in conjunction with such catering business. No person

595 shall qualify as a caterer unless forty percent (40%) or more of  
596 the revenue derived from such catering business shall be from the  
597 serving of prepared food and not from the sale of alcoholic  
598 beverages and unless such person has obtained a permit for such  
599 business from the Department of Health. A caterer's permit shall  
600 not authorize the sale of alcoholic beverages on the premises of  
601 the person engaging in business as a caterer; however, the holder  
602 of an on-premises retailer's permit may hold a caterer's permit.  
603 When the holder of an on-premises retailer's permit or an  
604 affiliated entity of the holder also holds a caterer's permit, the  
605 caterer's permit shall not authorize the service of alcoholic  
606 beverages on a consistent, recurring basis at a separate, fixed  
607 location owned or operated by the caterer, on-premises retailer or  
608 affiliated entity and an on-premises retailer's permit shall be  
609 required for the separate location. All sales of alcoholic  
610 beverages by holders of a caterer's permit shall be made at the  
611 location being catered by the caterer, and such sales may be made  
612 only for consumption at the catered location. The location being  
613 catered may be anywhere within a county or judicial district that  
614 has voted to come out from under the dry laws. Such sales shall  
615 be made pursuant to any other conditions and restrictions which  
616 apply to sales made by on-premises retail permittees. The holder  
617 of a caterer's permit or his employees shall remain at the catered  
618 location as long as alcoholic beverages are being sold pursuant to  
619 the permit issued under this paragraph (g), and the  
620 permittee \* \* \* shall have at the location \* \* \* the  
621 identification card issued by the Alcoholic Beverage Control  
622 Division of the commission. No unsold alcoholic beverages may be  
623 left at the catered location by the permittee upon the conclusion  
624 of his business at that location. Appropriate law enforcement  
625 officers and Alcoholic Beverage Control Division personnel may  
626 enter a catered location on private property in order to enforce  
627 laws governing the sale or serving of alcoholic beverages.

628           (h) **Research Permit.** A research permit shall authorize  
629 the holder thereof to operate a research facility for the  
630 professional research of alcoholic beverages. Such permit shall  
631 authorize the holder of the permit to import and purchase limited  
632 amounts of alcoholic beverages from the commission or from  
633 importers, wineries and distillers of alcoholic beverages for  
634 professional research.

635           (i) **Alcohol processing permit.** An alcohol processing  
636 permit shall authorize the holder thereof to purchase, transport  
637 and possess alcoholic beverages for the exclusive use in cooking,  
638 processing or manufacturing products which contain alcoholic  
639 beverages as an integral ingredient. An alcohol processing permit  
640 shall not authorize the sale of alcoholic beverages on the  
641 premises of the person engaging in the business of cooking,  
642 processing or manufacturing products which contain alcoholic  
643 beverages. The amounts of alcoholic beverages allowed under an  
644 alcohol processing permit shall be set by the commission.

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

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

655           A church or funeral home may waive the distance restrictions  
656 imposed in this subsection in favor of allowing issuance by the  
657 commission of a permit, pursuant to subsection (1) of this  
658 section, to authorize activity relating to the manufacturing, sale  
659 or storage of alcoholic beverages which would otherwise be  
660 prohibited under the minimum distance criterion. Such waiver

661 shall be in written form from the owner, the governing body, or  
662 the appropriate officer of the church or funeral home having the  
663 authority to execute such a waiver, and the waiver shall be filed  
664 with and verified by the commission before becoming effective.

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

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

678 **SECTION 6.** Section 67-1-7, Mississippi Code of 1972, is  
679 amended as follows:

680 67-1-7. (1) Except as otherwise provided in Section 67-9-1  
681 for the transportation and possession of limited amounts of  
682 alcoholic beverages for the use of an alcohol processing  
683 permittee, and subject to all of the provisions and restrictions  
684 contained in this chapter, the manufacture, sale, distribution,  
685 possession and transportation of alcoholic beverages shall be  
686 lawful, subject to the restrictions hereinafter imposed, in those  
687 counties and municipalities of this state in which, at a local  
688 option election called and held for that purpose under the  
689 provisions of this chapter, a majority of the qualified electors  
690 voting in such election shall vote in favor thereof. Except as  
691 otherwise provided in Section 67-1-51 for holders of a caterer's  
692 permit, the manufacture, sale and distribution of alcoholic  
693 beverages shall not be permissible or lawful in counties except in

694 (a) incorporated municipalities located within such counties, (b)  
695 qualified resort areas within such counties approved as such by  
696 the State Tax Commission, or (c) clubs within such counties,  
697 whether within a municipality or not. The manufacture, sale,  
698 distribution and possession of native wines shall be lawful in any  
699 location within any such county except those locations where the  
700 manufacture, sale or distribution is prohibited by law other than  
701 this section or by regulations of the commission.

702 (2) Notwithstanding the foregoing, within any state park or  
703 any state park facility which has been declared a qualified resort  
704 area by the commission and any clubhouse or golf course that is a  
705 qualified resort area under Section 67-1-5(o)(iii), an on-premises  
706 retailer's permit may be issued for the clubhouse and the  
707 permittee may lawfully sell alcoholic beverages for consumption on  
708 his licensed premises regardless of whether or not the county or  
709 municipality in which the park or clubhouse is located has voted  
710 in favor of coming out from under the dry law, and it shall be  
711 lawful to receive, store, sell, possess and consume alcoholic  
712 beverages on the licensed premises, and to sell, distribute and  
713 transport alcoholic beverages to the licensed premises.

714 **SECTION 7.** Sections 27-71-19 and 67-5-15, Mississippi Code  
715 of 1972, which require suppliers selling alcoholic beverages to  
716 the State Tax Commission to affix revenue identification stamps to  
717 alcoholic beverage containers and require producers of native wine  
718 to affix a tax stamp to containers of native wine, are repealed.

719 **SECTION 8.** Sections 27-71-201 and 27-71-203, Mississippi  
720 Code of 1972, which impose a surcharge on sales of alcoholic  
721 beverage to be deposited into the ABC Warehouse Construction Fund  
722 and authorize the State Tax Commission to borrow money to fund  
723 construction of the ABC Warehouse, are repealed.

724 **SECTION 9.** This act shall take effect and be in force from  
725 and after its passage.