

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2447
 (As Sent to Governor)

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 AMEND
 18 SECTION 67-1-53, MISSISSIPPI CODE OF 1972, TO INCREASE TO 10% THE
 19 AMOUNT OF STOCK THAT AN OFFICER OF A CORPORATION APPLYING FOR AN
 20 ON-PREMISES RETAILER'S PERMIT MUST OWN IN ORDER FOR THE STATE TAX
 21 COMMISSION TO REQUIRE PERSONAL FINANCIAL INFORMATION FROM SUCH
 22 OFFICER; TO AMEND SECTIONS 67-1-25, 67-1-55, 67-1-57 AND 67-1-59,
 23 MISSISSIPPI CODE OF 1972, TO INCLUDE BUSINESS ENTITIES FORMED AS
 24 LIMITED LIABILITY COMPANIES IN THE LOCAL OPTION ALCOHOLIC BEVERAGE
 25 CONTROL LAW; TO REPEAL SECTIONS 27-71-19 AND 67-5-15, MISSISSIPPI
 26 CODE OF 1972, WHICH REQUIRE SUPPLIERS SELLING ALCOHOLIC BEVERAGES
 27 TO THE STATE TAX COMMISSION TO AFFIX REVENUE IDENTIFICATION STAMPS
 28 TO ALCOHOLIC BEVERAGE CONTAINERS AND REQUIRE PRODUCERS OF NATIVE
 29 WINE TO AFFIX A TAX STAMP TO CONTAINERS OF NATIVE WINE; TO REPEAL
 30 SECTIONS 27-71-201 AND 27-71-203, MISSISSIPPI CODE OF 1972, WHICH
 31 IMPOSE A SURCHARGE ON SALES OF ALCOHOLIC BEVERAGES TO BE DEPOSITED
 32 INTO THE ABC WAREHOUSE CONSTRUCTION FUND AND AUTHORIZE THE STATE
 33 TAX COMMISSION TO BORROW MONEY TO FUND CONSTRUCTION OF THE ABC
 34 WAREHOUSE; AND FOR RELATED PURPOSES.

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

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

38 27-71-5. (1) Upon each person approved for a permit under
 39 the provisions of the Alcoholic Beverage Control Law and
 40 amendments thereto, there is levied and imposed for each location
 41 for the privilege of engaging and continuing in this state in the
 42 business authorized by such permit, an annual privilege license
 43 tax in the amount provided in the following schedule:

44 (a) Except as otherwise provided in this subsection
45 (1), manufacturer's permit, Class 1, distiller's and/or
46 rectifier's..... \$4,500.00
47 (b) Manufacturer's permit, Class 2, wine manufacturer
48 \$1,800.00
49 (c) Manufacturer's permit, Class 3, native wine
50 manufacturer per ten thousand (10,000) gallons or part thereof
51 produced..... \$ 10.00
52 (d) Native wine retailer's permit..... \$ 50.00
53 (e) Package retailer's permit, each..... \$ 900.00
54 (f) On-premises retailer's permit, except for clubs and
55 common carriers, each..... \$ 450.00
56 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
57 for each additional Five Thousand Dollars (\$5,000.00), or fraction
58 thereof..... \$ 225.00
59 (g) On-premises retailer's permit for wine of more than
60 five percent (5%) alcohol by weight, but not more than twenty-one
61 percent (21%) alcohol by weight, each..... \$ 225.00
62 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
63 for each additional Five Thousand Dollars (\$5,000.00), or fraction
64 thereof..... \$ 225.00
65 (h) On-premises retailer's permit for clubs.. \$ 225.00
66 On purchases exceeding Five Thousand Dollars (\$5,000.00)
67 and for each additional Five Thousand Dollars (\$5,000.00), or
68 fraction thereof..... \$ 225.00
69 (i) On-premises retailer's permit for common carriers,
70 per car, plane, or other vehicle..... \$ 120.00
71 (j) Solicitor's permit, regardless of any other
72 provision of law, solicitor's permits shall be issued only in the
73 discretion of the commission..... \$ 100.00
74 (k) Filing fee for each application except for an
75 employee identification card..... \$ 25.00
76 (l) Temporary permit, Class 1, each..... \$ 10.00

77 (m) Temporary permit, Class 2, each..... \$ 50.00
78 On-premises purchases exceeding Five Thousand Dollars
79 (\$5,000.00) and for each additional Five Thousand Dollars
80 (\$5,000.00), or fraction thereof..... \$ 225.00
81 (n) (i) Caterer's permit..... \$ 600.00
82 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
83 for each additional Five Thousand Dollars (\$5,000.00), or fraction
84 thereof..... \$ 250.00
85 (ii) Caterer's permit for holders of on-premises
86 retailer's permit..... \$ 150.00
87 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
88 for each additional Five Thousand Dollars (\$5,000.00), or fraction
89 thereof..... \$ 250.00
90 (o) Research permit..... \$ 100.00

91 * * *

92 If a person approved for a manufacturer's permit, Class 1,
93 distiller's permit produces a product with at least fifty-one
94 percent (51%) of the finished product by volume being obtained
95 from alcoholic fermentation of grapes, fruits, berries, honey
96 and/or vegetables grown and produced in Mississippi, and produces
97 all of the product by using not more than one (1) still having a
98 maximum capacity of one hundred fifty (150) liters, the annual
99 privilege license tax for such a permit shall be Ten Dollars
100 (\$10.00) per ten thousand (10,000) gallons or part thereof
101 produced. Bulk, concentrated or fortified ingredients used for
102 blending may be produced outside this state and used in producing
103 such a product.

104 In addition to the filing fee imposed by item (k) of this
105 subsection, a fee to be determined by the State Tax Commission may
106 be charged to defray costs incurred to process applications. The
107 additional fees shall be paid into the State Treasury to the
108 credit of a special fund account, which is hereby created, and
109 expenditures therefrom shall be made only to defray the costs

110 incurred by the State Tax Commission in processing alcoholic
111 beverage applications. Any unencumbered balance remaining in the
112 special fund account on June 30 of any fiscal year shall lapse
113 into the State General Fund.

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

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

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

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

143 (4) The number of permits issued by the commission shall not
144 be restricted or limited on a population basis; however, the
145 foregoing limitation shall not be construed to preclude the right
146 of the commission to refuse to issue a permit because of the
147 undesirability of the proposed location.

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

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

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

166 27-71-17. It shall be unlawful for any person to counterfeit
167 or reuse any label prescribed by the commission and used to
168 identify alcoholic beverages sold at wholesale by the commission
169 and, upon conviction, the person shall be punished by a fine of
170 not more than Five Thousand Dollars (\$5,000.00), or by
171 imprisonment in the State Penitentiary for not less than one (1)
172 year, nor more than ten (10) years, or * * * both * * *.

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

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

176 67-1-37. The State Tax Commission, under its duties and
177 powers with respect to the Alcoholic Beverage Control Division
178 therein, shall have the following powers, functions and duties:

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

183 (b) To revoke, suspend or cancel, for violation of or
184 noncompliance with the provisions of this chapter, or the law
185 governing the production and sale of native wines, or any lawful
186 rules and regulations of the commission issued hereunder, or for
187 other sufficient cause, any permit issued by it under the
188 provisions of this chapter; however, no such permit shall be
189 revoked, suspended or cancelled except after a hearing of which
190 the permit holder shall have been given reasonable notice and an
191 opportunity to be heard. The board shall be authorized to suspend
192 the permit of any permit holder for being out of compliance with
193 an order for support, as defined in Section 93-11-153. The
194 procedure for suspension of a permit for being out of compliance
195 with an order for support, and the procedure for the reissuance or
196 reinstatement of a permit suspended for that purpose, and the
197 payment of any fees for the reissuance or reinstatement of a
198 permit suspended for that purpose, shall be governed by Section
199 93-11-157 or Section 93-11-163, as the case may be. If there is
200 any conflict between any provision of Section 93-11-157 or Section
201 93-11-163 and any provision of this chapter, the provisions of
202 Section 93-11-157 or Section 93-11-163, as the case may be, shall
203 control.

204 (c) To prescribe forms of permits and applications for
205 permits and of all reports which it deems necessary in
206 administering this chapter.

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

209 secure the use of proper ingredients and methods of manufacture of
210 alcoholic beverages.

211 (e) To issue rules regulating the advertising of
212 alcoholic beverages in the state in any class of media and
213 permitting advertising of the retail price of alcoholic beverages.

214 (f) To issue reasonable rules and regulations, not
215 inconsistent with the federal laws or regulations, requiring
216 informative labeling of all alcoholic beverages offered for sale
217 within this state and providing for the standards of fill and
218 shapes of retail containers of alcoholic beverages; however, such
219 containers shall not contain less than fifty (50) milliliters by
220 liquid measure.

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

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

239 (i) To call upon other administrative departments of
240 the state, county and municipal governments, county and city
241 police departments and upon prosecuting officers for such

242 information and assistance as it may deem necessary in the
243 performance of its duties.

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

250 (k) To inspect, or cause to be inspected, any premises
251 where alcoholic liquors intended for sale are manufactured,
252 stored, distributed or sold, and to examine or cause to be
253 examined all books and records pertaining to the business
254 conducted therein.

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

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

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

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

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

287 * * *

288 (q) To enforce the provisions made unlawful by Sections
289 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

292 67-1-37. The State Tax Commission, under its duties and
293 powers with respect to the Alcoholic Beverage Control Division
294 therein, shall have the following powers, functions and duties:

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

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

308 the permit of any permit holder for being out of compliance with
309 an order for support, as defined in Section 93-11-153. The
310 procedure for suspension of a permit for being out of compliance
311 with an order for support, and the procedure for the reissuance or
312 reinstatement of a permit suspended for that purpose, and the
313 payment of any fees for the reissuance or reinstatement of a
314 permit suspended for that purpose, shall be governed by Section
315 93-11-157 or 93-11-163, as the case may be. If there is any
316 conflict between any provision of Section 93-11-157 or 93-11-163
317 and any provision of this chapter, the provisions of Section
318 93-11-157 or 93-11-163, as the case may be, shall control.

319 (c) To prescribe forms of permits and applications for
320 permits and of all reports which it deems necessary in
321 administering this chapter.

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

326 (e) To issue rules regulating the advertising of
327 alcoholic beverages in the state in any class of media and
328 permitting advertising of the retail price of alcoholic beverages.

329 (f) To issue reasonable rules and regulations, not
330 inconsistent with the federal laws or regulations, requiring
331 informative labeling of all alcoholic beverages offered for sale
332 within this state and providing for the standards of fill and
333 shapes of retail containers of alcoholic beverages; however, such
334 containers shall not contain less than fifty (50) milliliters by
335 liquid measure.

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

341 no such permit shall be issued. The Alcoholic Beverage Control
342 Division shall not allow the sale or consumption of alcoholic
343 beverages in or on the campus of any public school or college, and
344 no alcoholic beverage shall be for sale or consumed at any public
345 athletic event at any grammar or high school or any college.

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

354 (i) To call upon other administrative departments of
355 the state, county and municipal governments, county and city
356 police departments and upon prosecuting officers for such
357 information and assistance as it may deem necessary in the
358 performance of its duties.

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

365 (k) To inspect, or cause to be inspected, any premises
366 where alcoholic liquors intended for sale are manufactured,
367 stored, distributed or sold, and to examine or cause to be
368 examined all books and records pertaining to the business
369 conducted therein.

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

374 state, requiring the attendance of witnesses and the production of
375 books and records; to administer or cause to be administered
376 oaths; and to examine or cause to be examined any witness under
377 oath. Any court of record, or any judge thereof, may by order
378 duly entered require the attendance of witnesses and the
379 production of relevant books subpoenaed by the commission, and
380 such court or judge may compel obedience to its or his order by
381 proceedings for contempt.

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

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

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

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

402 * * *

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

405 67-1-41. (1) The State Tax Commission is hereby created a
406 wholesale distributor and seller of alcoholic beverages, not

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

425 * * *

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

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

436 (4) The commission may promulgate rules and regulations
437 which authorize on-premises retailers to purchase limited amounts
438 of alcoholic beverages from package retailers and for package
439 retailers to purchase limited amounts of alcoholic beverages from

440 other package retailers. The commission shall develop and provide
441 forms to be completed by the on-premises retailers and the package
442 retailers verifying the transaction. The completed forms shall be
443 forwarded to the commission within a period of time prescribed by
444 the commission.

445 (5) The commission may promulgate rules which authorize the
446 holder of a package retailer's permit to permit individual retail
447 purchasers of packages of alcoholic beverages to return, for
448 exchange, credit or refund, limited amounts of original sealed and
449 unopened packages of alcoholic beverages purchased by the
450 individual from the package retailer.

451 (6) The commission shall maintain all forms to be completed
452 by applicants necessary for licensure by the commission at all
453 district offices of the commission.

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

464 (8) The commission may promulgate rules disallowing open
465 product sampling of alcoholic beverages or wines by the holders of
466 package retailer's permits and permitting open product sampling of
467 alcoholic beverages by the holders of on-premises retailer's
468 permits. Permitted sample products shall be plainly identified
469 "sample" and the actual sampling must occur in the presence of the
470 manufacturer's representatives during the legal operating hours of
471 on-premises retailers.

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

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

485 67-1-51. (1) Permits which may be issued by the commission
486 shall be as follows:

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

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

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

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

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

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

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

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

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

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

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

558 Temporary retailer's permits shall be of the following
559 classes:

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

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

580 Class 2. A temporary permit, not to exceed seventy (70)
581 days, may be issued to prospective permittees seeking to transfer
582 a permit authorized in either paragraph (b) or (c) of this
583 section. A Class 2 permit may be issued only to applicants
584 demonstrating to the commission, by affidavit, that they meet the
585 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
586 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
587 commission, following a preliminary review of the affidavit and
588 the requirements of the applicable statutes and regulations, may
589 issue the permit.

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

598 (g) **Caterer's permit.** A caterer's permit shall permit
599 the purchase of alcoholic beverages by a person engaging in
600 business as a caterer and the resale of alcoholic beverages by
601 such person in conjunction with such catering business. No person

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

635 order to enforce laws governing the sale or serving of alcoholic
636 beverages.

637 (h) **Research permit.** A research permit shall authorize
638 the holder thereof to operate a research facility for the
639 professional research of alcoholic beverages. Such permit shall
640 authorize the holder of the permit to import and purchase limited
641 amounts of alcoholic beverages from the commission or from
642 importers, wineries and distillers of alcoholic beverages for
643 professional research.

644 (i) **Alcohol processing permit.** An alcohol processing
645 permit shall authorize the holder thereof to purchase, transport
646 and possess alcoholic beverages for the exclusive use in cooking,
647 processing or manufacturing products which contain alcoholic
648 beverages as an integral ingredient. An alcohol processing permit
649 shall not authorize the sale of alcoholic beverages on the
650 premises of the person engaging in the business of cooking,
651 processing or manufacturing products which contain alcoholic
652 beverages. The amounts of alcoholic beverages allowed under an
653 alcohol processing permit shall be set by the commission.

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

657 (3) Except as otherwise provided in this subsection, no
658 authority shall be granted to any person to manufacture, sell or
659 store for sale any intoxicating liquor as specified in this
660 chapter within four hundred (400) feet of any church, school,
661 kindergarten or funeral home. However, within an area zoned
662 commercial or business, such minimum distance shall be not less
663 than one hundred (100) feet.

664 A church or funeral home may waive the distance restrictions
665 imposed in this subsection in favor of allowing issuance by the
666 commission of a permit, pursuant to subsection (1) of this
667 section, to authorize activity relating to the manufacturing, sale

668 or storage of alcoholic beverages which would otherwise be
669 prohibited under the minimum distance criterion. Such waiver
670 shall be in written form from the owner, the governing body, or
671 the appropriate officer of the church or funeral home having the
672 authority to execute such a waiver, and the waiver shall be filed
673 with and verified by the commission before becoming effective.

674 The distance restrictions imposed in this subsection shall
675 not apply to the sale or storage of alcoholic beverages at a bed
676 and breakfast inn listed in the National Register of Historic
677 Places.

678 (4) No person, either individually or as a member of a firm,
679 partnership, limited liability company or association, or as a
680 stockholder, officer or director in a corporation, shall own or
681 control any interest in more than one (1) package retailer's
682 permit, nor shall such person's spouse, if living in the same
683 household of such person, any relative of such person, if living
684 in the same household of such person, or any other person living
685 in the same household with such person own any interest in any
686 other package retailer's permit.

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

689 67-1-7. (1) Except as otherwise provided in Section 67-9-1
690 for the transportation and possession of limited amounts of
691 alcoholic beverages for the use of an alcohol processing
692 permittee, and subject to all of the provisions and restrictions
693 contained in this chapter, the manufacture, sale, distribution,
694 possession and transportation of alcoholic beverages shall be
695 lawful, subject to the restrictions hereinafter imposed, in those
696 counties and municipalities of this state in which, at a local
697 option election called and held for that purpose under the
698 provisions of this chapter, a majority of the qualified electors
699 voting in such election shall vote in favor thereof. Except as
700 otherwise provided in Section 67-1-51 for holders of a caterer's

701 permit, the manufacture, sale and distribution of alcoholic
702 beverages shall not be permissible or lawful in counties except in
703 (a) incorporated municipalities located within such counties, (b)
704 qualified resort areas within such counties approved as such by
705 the State Tax Commission, or (c) clubs within such counties,
706 whether within a municipality or not. The manufacture, sale,
707 distribution and possession of native wines shall be lawful in any
708 location within any such county except those locations where the
709 manufacture, sale or distribution is prohibited by law other than
710 this section or by regulations of the commission.

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

723 **SECTION 7.** Section 67-1-53, Mississippi Code of 1972, is
724 amended as follows:

725 67-1-53. (1) Application for permits shall be in such form
726 and shall contain such information as shall be required by the
727 regulations of the commission; however, no regulation of the
728 commission shall require personal financial information from any
729 officer of a corporation applying for an on-premises retailer's
730 permit to sell alcoholic beverages unless such officer owns ten
731 percent (10%) or more of the stock of such corporation.

732 (2) Every applicant for each type of permit authorized by
733 Section 67-1-51 shall give notice of such application by

734 publication for two (2) consecutive issues in a newspaper of
735 general circulation published in the city or town in which
736 applicant's place of business is located. However, in * * *
737 instances where no newspaper is published in the city or town,
738 then the notice shall be published in a newspaper of general
739 circulation published in the county where the applicant's business
740 is located. If no newspaper is published in the county, the
741 notice shall be published in a qualified newspaper which is
742 published in the closest neighboring county and circulated in the
743 county of applicant's residence. The notice shall be printed in
744 ten-point black face type and shall set forth the type of permit
745 to be applied for, the exact location of the place of business,
746 the name of the owner or owners thereof, and if operating under an
747 assumed name, the trade name together with the names of all
748 owners, and if a corporation, the names and titles of all
749 officers. The cost of such notice shall be borne by the
750 applicant.

751 (3) Each application or filing made under this section shall
752 include the social security number(s) of the applicant in
753 accordance with Section 93-11-64, Mississippi Code of 1972.

754 **SECTION 8.** Section 67-1-25, Mississippi Code of 1972, is
755 amended as follows:

756 67-1-25. No person shall be appointed director, agent or
757 inspector for the commission under this chapter who is not a
758 citizen of the United States and who has not resided within the
759 State of Mississippi successively for five (5) years next
760 preceding the date of his appointment. No director, agent,
761 inspector or other employee shall be appointed under this chapter
762 who has been convicted of any violation of any federal or state
763 law concerning the manufacture, sale or possession of alcoholic
764 liquor prior or subsequent to July 1, 1966, or who has paid a fine
765 or penalty in settlement of any prosecution against him for any
766 violation of such laws or shall have forfeited his bond to appear

767 in court to answer charges for any such violation, nor shall any
768 person be so appointed who has been convicted of a felony in any
769 state or federal court. No person appointed or employed by the
770 commission under this chapter may, directly or indirectly,
771 individually or as a member of a partnership or limited liability
772 company, or as a shareholder of a corporation, have any interest
773 whatsoever in the manufacture, sale or distribution of alcoholic
774 liquor, or receive any compensation or profit therefrom, or have
775 any interest whatsoever in the purchases or sales made by the
776 persons authorized by this chapter to purchase or to sell
777 alcoholic liquor.

778 This section shall not prevent any person appointed or
779 employed by the commission from purchasing and keeping in his
780 possession for the use of himself or members of his family or
781 guests any alcoholic liquor which may be purchased or kept by any
782 other person by virtue of this chapter.

783 **SECTION 9.** Section 67-1-55, Mississippi Code of 1972, is
784 amended as follows:

785 67-1-55. No permit of any type shall be issued by the
786 commission until the applicant has first filed with the commission
787 a sworn statement disclosing all persons who are financially
788 involved in the operation of the business for which the permit is
789 sought. If an applicant is an individual, he will swear that he
790 owns one hundred percent (100%) of the business for which he is
791 seeking a permit. If the applicant is a partnership, all partners
792 and their addresses shall be disclosed and the extent of their
793 interest in the partnership shall be disclosed. If the applicant
794 is a corporation, the total stock in the corporation shall be
795 disclosed and each shareholder and his address and the amount of
796 stock in the corporation owned by him shall be disclosed. If the
797 applicant is a limited liability company, each member and their
798 addresses shall be disclosed and the extent of their interest in
799 the limited liability company shall be disclosed. If the

800 applicant is a trust, the trustee and all beneficiaries and their
801 addresses shall be disclosed. If the applicant is a combination
802 of any of the above, all information required to be disclosed
803 above shall be required.

804 All the disclosures shall be in writing and kept on file at
805 the commission's office and shall be available to the public.

806 Every applicant must, when applying for a renewal of his
807 permit, disclose any change in the ownership of the business or
808 any change in the beneficiaries of the income from the business.

809 Any person who willfully fails to fully disclose the * * *
810 information required by this section, or who gives false
811 information, shall be guilty of a misdemeanor and, upon conviction
812 thereof, shall be fined a sum not to exceed Five Hundred Dollars
813 (\$500.00) or imprisoned for not more than one (1) year, or both,
814 and the person or applicant shall never again be eligible for any
815 permit pertaining to alcoholic beverages.

816 **SECTION 10.** Section 67-1-57, Mississippi Code of 1972, is
817 amended as follows:

818 67-1-57. Before a permit is issued the commission shall
819 satisfy itself:

820 (a) That the applicant, if an individual, or if a
821 partnership, each of the members of the partnership, or if a
822 corporation, each of its principal officers and directors, or if a
823 limited liability company, each member of the limited liability
824 company, is of good moral character and, in addition, enjoys a
825 reputation of being a peaceable, law-abiding citizen of the
826 community in which he resides, and is generally fit for the trust
827 to be reposed in him, is not less than twenty-one (21) years of
828 age, and has not been convicted of a felony in any state or
829 federal court.

830 (b) That, except in the case of an application for a
831 solicitor's permit, the applicant is the true and actual owner of
832 the business for which the permit is desired, and that he intends

833 to carry on the business authorized for himself and not as the
834 agent of any other person, and that he intends to superintend in
835 person the management of the business or that he will designate a
836 manager to manage the business for him; any * * * manager must be
837 approved by the commission and must possess all of the
838 qualifications required of a permittee.

839 (c) That the applicant for a package retailer's permit,
840 if an individual, is a resident of the State of Mississippi. If
841 the applicant is a partnership, each member of the partnership
842 must be a resident of the state. If the applicant is a limited
843 liability company, each member of the limited liability company
844 must be a resident of the state. If the applicant is a
845 corporation, the designated manager of the corporation must be a
846 resident of the state.

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

850 (e) That the place for which the permit is to be issued
851 is within the corporate limits of an incorporated municipality or
852 qualified resort area or club which comes within the provisions of
853 this chapter.

854 (f) That the applicant is not indebted to the state for
855 any taxes, fees or payment of penalties imposed by any law of the
856 State of Mississippi or by any rule or regulation of the
857 commission.

858 (g) That the applicant is not in the habit of using
859 alcoholic beverages to excess and is not physically or mentally
860 incapacitated, and that the applicant has the ability to read and
861 write the English language.

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

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

870 (j) That the commission has not, in the exercise of its
871 discretion which is reserved and preserved to it, refused to
872 grant * * * permits under the restrictions of this section, as
873 well as under any other pertinent provision of this chapter.

874 (k) That there are not sufficient legal reasons to deny
875 a permit on the ground that the premises for which the permit is
876 sought has previously been operated, used or frequented for any
877 purpose or in any manner that is lewd, immoral or offensive to
878 public decency. In the granting or withholding of any permit to
879 sell alcoholic beverages at retail, the commission in forming its
880 conclusions may give consideration to any recommendations made in
881 writing by the district or county attorney or county, circuit or
882 chancery judge of the county, or the sheriff of the county, or the
883 mayor or chief of police of an incorporated city or town wherein
884 the applicant proposes to conduct his business and to any
885 recommendations made by representatives of the commission.

886 (l) That the applicant and the applicant's key
887 employees, as determined by the commission, do not have a
888 disqualifying criminal record. In order to obtain a criminal
889 record history check, the applicant shall submit to the commission
890 a set of fingerprints from any local law enforcement agency for
891 each person for whom the records check is required. The
892 commission shall forward the fingerprints to the Mississippi
893 Department of Public Safety. If no disqualifying record is
894 identified at the state level, the Department of Public Safety
895 shall forward the fingerprints to the Federal Bureau of
896 Investigation for a national criminal history record check. Costs
897 for processing the set or sets of fingerprints shall be borne by
898 the applicant. The commission shall not deny employment to an

899 employee of the applicant prior to the identification of a
900 disqualifying record or other disqualifying information.

901 **SECTION 11.** Section 67-1-59, Mississippi Code of 1972, is
902 amended as follows:

903 67-1-59. Where the word "applicant" is used in Section
904 67-1-57 or in Sections 67-1-51, 67-1-53, 67-1-55 and 67-1-63, it
905 shall also mean and include each member of a partnership, limited
906 liability company or association and all officers and the owner or
907 owners of the majority of the corporate stock of a corporation, as
908 of the date of the application.

909 **SECTION 12.** Sections 27-71-19 and 67-5-15, Mississippi Code
910 of 1972, which require suppliers selling alcoholic beverages to
911 the State Tax Commission to affix revenue identification stamps to
912 alcoholic beverage containers and require producers of native wine
913 to affix a tax stamp to containers of native wine, are repealed.

914 **SECTION 13.** Sections 27-71-201 and 27-71-203, Mississippi
915 Code of 1972, which impose a surcharge on sales of alcoholic
916 beverage to be deposited into the ABC Warehouse Construction Fund
917 and authorize the State Tax Commission to borrow money to fund
918 construction of the ABC Warehouse, are repealed.

919 **SECTION 14.** This act shall take effect and be in force from
920 and after its passage.