

By: Representative Reeves

To: Ways and Means

HOUSE BILL NO. 1281

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE STATE TAX COMMISSION'S ALCOHOLIC BEVERAGE CONTROL
3 DIVISION SHALL NOT ISSUE A PACKAGE RETAILER'S PERMIT IF IT
4 RECEIVES A PETITION OPPOSING THE ISSUANCE OF A PROPOSED PERMIT
5 THAT IS SIGNED BY AT LEAST TEN PERCENT OR FIFTEEN HUNDRED,
6 WHICHEVER IS LESS, OF THE ADULT RESIDENTS RESIDING WITHIN A TWO
7 MILE RADIUS OF THE LOCATION OF THE PROPERTY FOR WHICH A PERMIT IS
8 REQUESTED; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 67-1-51, Mississippi Code of 1972, is
11 amended as follows:

12 67-1-51. (1) Permits which may be issued by the commission
13 shall be as follows:

14 (a) **Manufacturer's permit.** A manufacturer's permit
15 shall permit the manufacture, importation in bulk, bottling and
16 storage of alcoholic liquor and its distribution and sale to
17 manufacturers holding permits under this chapter in this state and
18 to persons outside the state who are authorized by law to purchase
19 the same, and to sell exclusively to the commission.

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

21 Class 1. Distiller's and/or rectifier's permit, which shall
22 authorize the holder thereof to operate a distillery for the
23 production of distilled spirits by distillation or redistillation
24 and/or to operate a rectifying plant for the purifying, refining,
25 mixing, blending, flavoring or reducing in proof of distilled
26 spirits and alcohol.

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

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

33 (b) **Package retailer's permit.** Except as otherwise
34 provided in this paragraph, a package retailer's permit shall
35 authorize the holder thereof to operate a store exclusively for
36 the sale at retail in original sealed and unopened packages of
37 alcoholic beverages, including native wines, not to be consumed on
38 the premises where sold. Alcoholic beverages shall not be sold by
39 any retailer in any package or container containing less than
40 fifty (50) milliliters by liquid measure. In addition to the sale
41 at retail of packages of alcoholic beverages, the holder of a
42 package retailer's permit is authorized to sell at retail
43 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
44 other beverages commonly used to mix with alcoholic beverages.
45 Nonalcoholic beverages sold by the holder of a package retailer's
46 permit shall not be consumed on the premises where sold.

47 (c) **On-premises retailer's permit.** An on-premises
48 retailer's permit shall authorize the sale of alcoholic beverages,
49 including native wines, for consumption on the licensed premises
50 only. Such a permit shall issue only to qualified hotels,
51 restaurants and clubs, and to common carriers with adequate
52 facilities for serving passengers. In resort areas, whether
53 inside or outside of a municipality, the commission may, in its
54 discretion, issue on-premises retailer's permits to such
55 establishments as it deems proper. An on-premises retailer's
56 permit when issued to a common carrier shall authorize the sale
57 and serving of alcoholic beverages aboard any licensed vehicle
58 while moving through any county of the state; however, the sale of
59 such alcoholic beverages shall not be permitted while such vehicle
60 is stopped in a county that has not legalized such sales.

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

63 or wholesaler holding a proper permit, to solicit on behalf of his
64 employer orders for alcoholic beverages, and to otherwise promote
65 his employer's products in a legitimate manner. Such a permit
66 shall authorize the representation of and employment by one (1)
67 principal only. However, the permittee may also, in the
68 discretion of the commission, be issued additional permits to
69 represent other principals. No such permittee shall buy or sell
70 alcoholic beverages for his own account, and no such beverage
71 shall be brought into this state in pursuance of the exercise of
72 such permit otherwise than through a permit issued to a wholesaler
73 or manufacturer in the state.

74 (e) **Native wine retailer's permit.** A native wine
75 retailer's permit shall be issued only to a holder of a Class 3
76 manufacturer's permit, and shall authorize the holder thereof to
77 make retail sales of native wines to consumers for on-premises
78 consumption or to consumers in originally sealed and unopened
79 containers at an establishment located on the premises of or in
80 the immediate vicinity of a native winery.

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

85 Temporary retailer's permits shall be of the following
86 classes:

87 Class 1. A temporary one-day permit may be issued to bona
88 fide nonprofit civic or charitable organizations authorizing the
89 sale of alcoholic beverages, including native wine, for
90 consumption on the premises described in the temporary permit
91 only. Class 1 permits may be issued only to applicants
92 demonstrating to the commission, by affidavit submitted ten (10)
93 days prior to the proposed date or such other time as the
94 commission may determine, that they meet the qualifications of
95 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57

96 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
97 obtain all alcoholic beverages from package retailers located in
98 the county in which the temporary permit is issued. Alcoholic
99 beverages remaining in stock upon expiration of the temporary
100 permit may be returned by the permittee to the package retailer
101 for a refund of the purchase price upon consent of the package
102 retailer or may be kept by the permittee exclusively for personal
103 use and consumption, subject to all laws pertaining to the illegal
104 sale and possession of alcoholic beverages. The commission,
105 following review of the affidavit and the requirements of the
106 applicable statutes and regulations, may issue the permit.

107 Class 2. A temporary permit, not to exceed seventy (70)
108 days, may be issued to prospective permittees seeking to transfer
109 a permit authorized in either paragraph (b) or (c) of this
110 section. A Class 2 permit may be issued only to applicants
111 demonstrating to the commission, by affidavit, that they meet the
112 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
113 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
114 commission, following a preliminary review of the affidavit and
115 the requirements of the applicable statutes and regulations, may
116 issue the permit.

117 Class 2 temporary permittees must purchase their alcoholic
118 beverages directly from the commission or, with approval of the
119 commission, purchase the remaining stock of the previous
120 permittee. If the proposed applicant of a Class 1 or Class 2
121 temporary permit falsifies information contained in the
122 application or affidavit, the applicant shall never again be
123 eligible for a retail alcohol beverage permit and shall be subject
124 to prosecution for perjury.

125 (g) **Caterer's permit.** A caterer's permit shall permit
126 the purchase of alcoholic beverages by a person engaging in
127 business as a caterer and the resale of alcoholic beverages by
128 such person in conjunction with such catering business. No person

129 shall qualify as a caterer unless forty percent (40%) or more of
130 the revenue derived from such catering business shall be from the
131 serving of prepared food and not from the sale of alcoholic
132 beverages and unless such person has obtained a permit for such
133 business from the Department of Health. A caterer's permit shall
134 not authorize the sale of alcoholic beverages on the premises of
135 the person engaging in business as a caterer; however, the holder
136 of an on-premises retailer's permit may hold a caterer's permit.
137 When the holder of an on-premises retailer's permit or an
138 affiliated entity of the holder also holds a caterer's permit, the
139 caterer's permit shall not authorize the service of alcoholic
140 beverages on a consistent, recurring basis at a separate, fixed
141 location owned or operated by the caterer, on-premises retailer or
142 affiliated entity and an on-premises retailer's permit shall be
143 required for the separate location. All sales of alcoholic
144 beverages by holders of a caterer's permit shall be made at the
145 location being catered by the caterer, and such sales may be made
146 only for consumption at the catered location. The location being
147 catered may be anywhere within a county or judicial district that
148 has voted to come out from under the dry laws or in which the
149 sale, distribution and possession of alcoholic beverages is
150 otherwise authorized by law. Such sales shall be made pursuant to
151 any other conditions and restrictions which apply to sales made by
152 on-premises retail permittees. The holder of a caterer's permit
153 or his employees shall remain at the catered location as long as
154 alcoholic beverages are being sold pursuant to the permit issued
155 under this paragraph (g), and the permittee shall have at the
156 location the identification card issued by the Alcoholic Beverage
157 Control Division of the commission. No unsold alcoholic beverages
158 may be left at the catered location by the permittee upon the
159 conclusion of his business at that location. Appropriate law
160 enforcement officers and Alcoholic Beverage Control Division
161 personnel may enter a catered location on private property in

162 order to enforce laws governing the sale or serving of alcoholic
163 beverages.

164 (h) **Research permit.** A research permit shall authorize
165 the holder thereof to operate a research facility for the
166 professional research of alcoholic beverages. Such permit shall
167 authorize the holder of the permit to import and purchase limited
168 amounts of alcoholic beverages from the commission or from
169 importers, wineries and distillers of alcoholic beverages for
170 professional research.

171 (i) **Alcohol processing permit.** An alcohol processing
172 permit shall authorize the holder thereof to purchase, transport
173 and possess alcoholic beverages for the exclusive use in cooking,
174 processing or manufacturing products which contain alcoholic
175 beverages as an integral ingredient. An alcohol processing permit
176 shall not authorize the sale of alcoholic beverages on the
177 premises of the person engaging in the business of cooking,
178 processing or manufacturing products which contain alcoholic
179 beverages. The amounts of alcoholic beverages allowed under an
180 alcohol processing permit shall be set by the commission.

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

184 (3) Except as otherwise provided in this subsection, no
185 authority shall be granted to any person to manufacture, sell or
186 store for sale any intoxicating liquor as specified in this
187 chapter within four hundred (400) feet of any church, school,
188 kindergarten or funeral home. However, within an area zoned
189 commercial or business, such minimum distance shall be not less
190 than one hundred (100) feet.

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

195 or storage of alcoholic beverages which would otherwise be
196 prohibited under the minimum distance criterion. Such waiver
197 shall be in written form from the owner, the governing body, or
198 the appropriate officer of the church or funeral home having the
199 authority to execute such a waiver, and the waiver shall be filed
200 with and verified by the commission before becoming effective.

201 The distance restrictions imposed in this subsection shall
202 not apply to the sale or storage of alcoholic beverages at a bed
203 and breakfast inn listed in the National Register of Historic
204 Places.

205 (4) No person, either individually or as a member of a firm,
206 partnership, limited liability company or association, or as a
207 stockholder, officer or director in a corporation, shall own or
208 control any interest in more than one (1) package retailer's
209 permit, nor shall such person's spouse, if living in the same
210 household of such person, any relative of such person, if living
211 in the same household of such person, or any other person living
212 in the same household with such person own any interest in any
213 other package retailer's permit.

214 (5) The commission shall not issue a package retailer's
215 permit if the commission receives a petition opposing the issuance
216 of a proposed permit which is signed by at least ten percent (10%)
217 or fifteen hundred (1500), whichever is less, of the adult
218 residents residing within a two (2) mile radius of the location of
219 the property for which a permit is requested.

220 **SECTION 2.** This act shall take effect and be in force from
221 and after July 1, 2007.