

By: Representative Reeves

To: Ways and Means

HOUSE BILL NO. 1381

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT FROM AND AFTER JULY 1, 2007, NO AUTHORITY SHALL BE
3 GRANTED TO ANY PERSON TO MANUFACTURE, SELL OR STORE FOR SALE ANY
4 ALCOHOLIC BEVERAGES WITHIN 2,500 FEET OF ANY CHURCH, SCHOOL,
5 KINDERGARTEN, FUNERAL HOME, DAY CARE FACILITY OR LIBRARY,
6 REGARDLESS OF HOW THE AREA IS ZONED; TO PROVIDE THAT FOR THE
7 PURPOSES OF DETERMINING SUCH DISTANCE RESTRICTIONS, THE DISTANCE
8 SHALL BE MEASURED FROM PROPERTY BOUNDARY TO PROPERTY BOUNDARY; TO
9 PROVIDE THAT THE DISTANCE RESTRICTIONS PROVIDED IN THIS ACT SHALL
10 NOT APPLY TO ANY PERMIT ISSUED BEFORE JULY 1, 2007, OR TO ANY
11 RENEWAL OF SUCH A PERMIT; AND FOR RELATED PURPOSES.

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

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

15 67-1-51. (1) Permits which may be issued by the commission
16 shall be as follows:

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

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

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

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

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

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

50 (c) **On-premises retailer's permit.** An on-premises
51 retailer's permit shall authorize the sale of alcoholic beverages,
52 including native wines, for consumption on the licensed premises
53 only. Such a permit shall issue only to qualified hotels,
54 restaurants and clubs, and to common carriers with adequate
55 facilities for serving passengers. In resort areas, whether
56 inside or outside of a municipality, the commission may, in its
57 discretion, issue on-premises retailer's permits to such
58 establishments as it deems proper. An on-premises retailer's
59 permit when issued to a common carrier shall authorize the sale
60 and serving of alcoholic beverages aboard any licensed vehicle
61 while moving through any county of the state; however, the sale of

62 such alcoholic beverages shall not be permitted while such vehicle
63 is stopped in a county that has not legalized such sales.

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

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

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

88 Temporary retailer's permits shall be of the following
89 classes:

90 Class 1. A temporary one-day permit may be issued to bona
91 fide nonprofit civic or charitable organizations authorizing the
92 sale of alcoholic beverages, including native wine, for
93 consumption on the premises described in the temporary permit
94 only. Class 1 permits may be issued only to applicants

95 demonstrating to the commission, by affidavit submitted ten (10)
96 days prior to the proposed date or such other time as the
97 commission may determine, that they meet the qualifications of
98 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
99 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
100 obtain all alcoholic beverages from package retailers located in
101 the county in which the temporary permit is issued. Alcoholic
102 beverages remaining in stock upon expiration of the temporary
103 permit may be returned by the permittee to the package retailer
104 for a refund of the purchase price upon consent of the package
105 retailer or may be kept by the permittee exclusively for personal
106 use and consumption, subject to all laws pertaining to the illegal
107 sale and possession of alcoholic beverages. The commission,
108 following review of the affidavit and the requirements of the
109 applicable statutes and regulations, may issue the permit.

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

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

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

161 may be left at the catered location by the permittee upon the
162 conclusion of his business at that location. Appropriate law
163 enforcement officers and Alcoholic Beverage Control Division
164 personnel may enter a catered location on private property in
165 order to enforce laws governing the sale or serving of alcoholic
166 beverages.

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

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

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

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

194 (ii) From and after July 1, 2007, no authority shall be
195 granted to any person to manufacture, sell or store for sale any
196 intoxicating liquor as specified in this chapter within two
197 thousand five hundred (2,500) feet of any church, school,
198 kindergarten, funeral home, day care facility or library,
199 regardless of how the area is zoned. For the purposes of
200 determining the distance restrictions provided in this
201 subparagraph, the distance shall be measured from property
202 boundary to property boundary. The restrictions provided in this
203 subparagraph shall not apply to any permit issued under this
204 chapter before July 1, 2007, or to any renewal of such a permit.

205 (iii) A church or funeral home may waive the
206 distance restrictions imposed in this subsection in favor of
207 allowing issuance by the commission of a permit, pursuant to
208 subsection (1) of this section, to authorize activity relating to
209 the manufacturing, sale or storage of alcoholic beverages which
210 would otherwise be prohibited under the minimum distance
211 criterion. Such waiver shall be in written form from the owner,
212 the governing body, or the appropriate officer of the church or
213 funeral home having the authority to execute such a waiver, and
214 the waiver shall be filed with and verified by the commission
215 before becoming effective.

216 (b) The distance restrictions imposed in this
217 subsection shall not apply to the sale or storage of alcoholic
218 beverages at a bed and breakfast inn listed in the National
219 Register of Historic Places.

220 (4) No person, either individually or as a member of a firm,
221 partnership, limited liability company or association, or as a
222 stockholder, officer or director in a corporation, shall own or
223 control any interest in more than one (1) package retailer's
224 permit, nor shall such person's spouse, if living in the same
225 household of such person, any relative of such person, if living
226 in the same household of such person, or any other person living

227 in the same household with such person own any interest in any
228 other package retailer's permit.

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