

By: Senator(s) Morgan

To: Finance

SENATE BILL NO. 2995

1 AN ACT TO AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, TO
 2 INCLUDE WITHIN THE DEFINITION OF THE TERM "QUALIFIED RESORT AREA"
 3 UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW, ANY
 4 FACILITY LOCATED ON PROPERTY THAT IS A GAME RESERVE WITH
 5 RESTRICTED ACCESS THAT CONSISTS OF AT LEAST 3,000 CONTIGUOUS ACRES
 6 WITH NO PUBLIC ROADS AND OFFERS AS A SERVICE HUNTS FOR A FEE TO
 7 OVERNIGHT GUESTS OF THE FACILITY; TO AMEND SECTION 67-1-7,
 8 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE SALE OF ALCOHOLIC
 9 BEVERAGES AS SUCH FACILITIES REGARDLESS OF WHETHER THE COUNTY IN
 10 WHICH THE FACILITY IS LOCATED HAS VOTED IN FAVOR OF COMING OUT
 11 FROM UNDER THE DRY LAWS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 67-1-5, Mississippi Code of 1972, is
 14 amended as follows:

15 67-1-5. For the purposes of this chapter and unless
 16 otherwise required by the context:

17 (a) "Alcoholic beverage" means any alcoholic liquid,
 18 including wines of more than five percent (5%) of alcohol by
 19 weight, capable of being consumed as a beverage by a human being,
 20 but shall not include wine containing five percent (5%) or less of
 21 alcohol by weight and shall not include beer containing not more
 22 than five percent (5%) of alcohol by weight, as provided for in
 23 Section 67-3-5, Mississippi Code of 1972, but shall include native
 24 wines. The words "alcoholic beverage" shall not include ethyl
 25 alcohol manufactured or distilled solely for fuel purposes.

26 (b) "Alcohol" means the product of distillation of any
 27 fermented liquid, whatever the origin thereof, and includes
 28 synthetic ethyl alcohol, but does not include denatured alcohol or
 29 wood alcohol.

30 (c) "Distilled spirits" means any beverage containing
 31 more than four percent (4%) of alcohol by weight produced by

32 distillation of fermented grain, starch, molasses or sugar,
33 including dilutions and mixtures of these beverages.

34 (d) "Wine" or "vinous liquor" means any product
35 obtained from the alcoholic fermentation of the juice of sound,
36 ripe grapes, fruits or berries and made in accordance with the
37 revenue laws of the United States.

38 (e) "Person" means and includes any individual,
39 partnership, corporation, association or other legal entity
40 whatsoever.

41 (f) "Manufacturer" means any person engaged in
42 manufacturing, distilling, rectifying, blending or bottling any
43 alcoholic beverage.

44 (g) "Wholesaler" means any person, other than a
45 manufacturer, engaged in distributing or selling any alcoholic
46 beverage at wholesale for delivery within or without this state
47 when such sale is for the purpose of resale by the purchaser.

48 (h) "Retailer" means any person who sells, distributes,
49 or offers for sale or distribution, any alcoholic beverage for use
50 or consumption by the purchaser and not for resale.

51 (i) "Commission" means the State Tax Commission of the
52 State of Mississippi, which shall create a division in its
53 organization to be known as the Alcoholic Beverage Control
54 Division. Any reference to the commission hereafter means the
55 powers and duties of the State Tax Commission with reference to
56 supervision of the Alcoholic Beverage Control Division.

57 (j) "Division" means the Alcoholic Beverage Control
58 Division of the State Tax Commission.

59 (k) "Municipality" means any incorporated city or town
60 of this state.

61 (l) "Hotel" means an establishment within a
62 municipality, or within a qualified resort area approved as such
63 by the commission, where, in consideration of payment, food and
64 lodging are habitually furnished to travelers and wherein are

65 located at least twenty (20) adequately furnished and completely
66 separate sleeping rooms with adequate facilities that persons
67 usually apply for and receive as overnight accommodations. Hotels
68 in towns or cities of more than twenty-five thousand (25,000)
69 population are similarly defined except that they must have fifty
70 (50) or more sleeping rooms. Any such establishment described in
71 this paragraph with less than fifty (50) beds shall operate one or
72 more regular dining rooms designed to be constantly frequented by
73 customers each day. When used in this chapter, the word "hotel"
74 shall also be construed to include any establishment that meets
75 the definition of "bed and breakfast inn" as provided in this
76 section.

77 (m) "Restaurant" means a place which is regularly and
78 in a bona fide manner used and kept open for the serving of meals
79 to guests for compensation, which has suitable seating facilities
80 for guests, and which has suitable kitchen facilities connected
81 therewith for cooking an assortment of foods and meals commonly
82 ordered at various hours of the day; the service of such food as
83 sandwiches and salads only shall not be deemed in compliance with
84 this requirement. No place shall qualify as a restaurant under
85 this chapter unless twenty-five percent (25%) or more of the
86 revenue derived from such place shall be from the preparation,
87 cooking and serving of meals and not from the sale of beverages,
88 or unless the value of food given to and consumed by customers is
89 equal to twenty-five percent (25%) or more of total revenue.

90 (n) "Club" means an association or a corporation:

91 (i) Organized or created under the laws of this
92 state for a period of five (5) years prior to July 1, 1966;

93 (ii) Organized not primarily for pecuniary profit
94 but for the promotion of some common object other than the sale or
95 consumption of alcoholic beverages;

96 (iii) Maintained by its members through the
97 payment of annual dues;

98 (iv) Owning, hiring or leasing a building or space
99 in a building of such extent and character as may be suitable and
100 adequate for the reasonable and comfortable use and accommodation
101 of its members and their guests;

102 (v) The affairs and management of which are
103 conducted by a board of directors, board of governors, executive
104 committee, or similar governing body chosen by the members at a
105 regular meeting held at some periodic interval; and

106 (vi) No member, officer, agent or employee of
107 which is paid, or directly or indirectly receives, in the form of
108 a salary or other compensation any profit from the distribution or
109 sale of alcoholic beverages to the club or to members or guests of
110 the club beyond such salary or compensation as may be fixed and
111 voted at a proper meeting by the board of directors or other
112 governing body out of the general revenues of the club.

113 The commission may, in its discretion, waive the five-year
114 provision of this paragraph. In order to qualify under this
115 paragraph, a club must file with the commission, at the time of
116 its application for a license under this chapter, two (2) copies
117 of a list of the names and residences of its members and similarly
118 file, within ten (10) days after the election of any additional
119 member, his name and address. Each club applying for a license
120 shall also file with the commission at the time of the application
121 a copy of its articles of association, charter of incorporation,
122 bylaws or other instruments governing the business and affairs
123 thereof.

124 (o) "Qualified resort area" means any area or locality
125 outside of the limits of incorporated municipalities in this state
126 commonly known and accepted as a place which regularly and
127 customarily attracts tourists, vacationists and other transients
128 because of its historical, scenic or recreational facilities or
129 attractions, or because of other attributes which regularly and
130 customarily appeal to and attract tourists, vacationists and other

131 transients in substantial numbers; however, no area or locality
132 shall so qualify as a resort area until it has been duly and
133 properly approved as such by the commission.

134 (i) The commission may approve an area or locality
135 outside of the limits of an incorporated municipality that is in
136 the process of being developed as a qualified resort area if such
137 area or locality, when developed, can reasonably be expected to
138 meet the requisites of the definition of the term "qualified
139 resort area." In such a case, the status of qualified resort area
140 shall not take effect until completion of the development.

141 (ii) The term includes any state park which is
142 declared a resort area by the commission; however, such
143 declaration may only be initiated in a written request for resort
144 area status made to the commission by the Executive Director of
145 the Department of Wildlife, Fisheries and Parks, and no permit for
146 the sale of any alcoholic beverage, as defined in this chapter,
147 except an on-premises retailer's permit, shall be issued for a
148 hotel, restaurant or bed and breakfast inn in such park.

149 (iii) The term includes:

150 1. The clubhouses associated with the state
151 park golf courses at the Lefleur's Bluff State Park, the John Kyle
152 State Park, the Percy Quin State Park and the Hugh White State
153 Park; * * *

154 2. The clubhouse and associated golf course
155 where the golf course is adjacent to one or more planned
156 residential developments and the golf course and all such
157 developments collectively include at least seven hundred fifty
158 (750) acres and at least four hundred (400) residential units; and

159 3. Any facility located on property that is a
160 game reserve with restricted access that consists of at least
161 three thousand (3,000) contiguous acres with no public roads and
162 offers as a service hunts for a fee to overnight guests of the
163 facility.

164 The status of these clubhouses, facilities and golf courses
165 as qualified resort areas does not require any declaration of same
166 by the commission.

167 (p) "Native wine" means any product, produced in
168 Mississippi for sale, having an alcohol content not to exceed
169 twenty-one percent (21%) by weight and made in accordance with
170 revenue laws of the United States, which shall be obtained
171 primarily from the alcoholic fermentation of the juice of ripe
172 grapes, fruits, berries or vegetables grown and produced in
173 Mississippi; provided that bulk, concentrated or fortified wines
174 used for blending may be produced without this state and used in
175 producing native wines. The commission shall adopt and promulgate
176 rules and regulations to permit a producer to import such bulk
177 and/or fortified wines into this state for use in blending with
178 native wines without payment of any excise tax that would
179 otherwise accrue thereon.

180 (q) "Native winery" means any place or establishment
181 within the State of Mississippi where native wine is produced in
182 whole or in part for sale.

183 (r) "Bed and breakfast inn" means an establishment
184 within a municipality where in consideration of payment, breakfast
185 and lodging are habitually furnished to travelers and wherein are
186 located not less than eight (8) and not more than nineteen (19)
187 adequately furnished and completely separate sleeping rooms with
188 adequate facilities, that persons usually apply for and receive as
189 overnight accommodations; however, such restriction on the minimum
190 number of sleeping rooms shall not apply to establishments on the
191 National Register of Historic Places. No place shall qualify as a
192 bed and breakfast inn under this chapter unless on the date of the
193 initial application for a license under this chapter more than
194 fifty percent (50%) of the sleeping rooms are located in a
195 structure formerly used as a residence.

196 **SECTION 2.** Section 67-1-7, Mississippi Code of 1972, is
197 amended as follows:

198 67-1-7. (1) Except as otherwise provided in Section 67-9-1
199 for the transportation and possession of limited amounts of
200 alcoholic beverages for the use of an alcohol processing
201 permittee, and subject to all of the provisions and restrictions
202 contained in this chapter, the manufacture, sale, distribution,
203 possession and transportation of alcoholic beverages shall be
204 lawful, subject to the restrictions hereinafter imposed, in those
205 counties and municipalities of this state in which, at a local
206 option election called and held for that purpose under the
207 provisions of this chapter, a majority of the qualified electors
208 voting in such election shall vote in favor thereof. Except as
209 otherwise provided in Section 67-1-51 for holders of a caterer's
210 permit, the manufacture, sale and distribution of alcoholic
211 beverages shall not be permissible or lawful in counties except in
212 (a) incorporated municipalities located within such counties, (b)
213 qualified resort areas within such counties approved as such by
214 the State Tax Commission, or (c) clubs within such counties,
215 whether within a municipality or not. The manufacture, sale,
216 distribution and possession of native wines shall be lawful in any
217 location within any such county except those locations where the
218 manufacture, sale or distribution is prohibited by law other than
219 this section or by regulations of the commission.

220 (2) Notwithstanding the foregoing, within any state park or
221 any state park facility which has been declared a qualified resort
222 area by the commission and any clubhouse, facility or golf course
223 that is a qualified resort area under Section 67-1-5(o)(iii), an
224 on-premises retailer's permit may be issued for the clubhouse or
225 facility and the permittee may lawfully sell alcoholic beverages
226 for consumption on his licensed premises regardless of whether or
227 not the county or municipality in which the park or clubhouse is
228 located has voted in favor of coming out from under the dry law,

229 and it shall be lawful to receive, store, sell, possess and
230 consume alcoholic beverages on the licensed premises, and to sell,
231 distribute and transport alcoholic beverages to the licensed
232 premises.

233 **SECTION 3.** This act shall take effect and be in force from
234 and after July 1, 2007.