

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1389: Local option and light wine and beer laws; remove certain residency requirements and extend authority of ABC agents to enforce law.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

20        **SECTION 1.** The commissioner may issue to a person who has  
21        been issued a permit to engage in the business of a retailer of  
22        light wine or beer for a premises located at a golf course, a  
23        permit that authorizes the sale of light wine or beer on a golf  
24        course from a hospitality cart. Light wine or beer sold from a  
25        hospitality cart must be consumed within the boundaries of the  
26        golf course. As used in this section, "hospitality cart" means a  
27        mobile cart from which beverages are sold on a golf course.

28        **SECTION 2.** Section 1 of this act shall be codified in  
29        Chapter 3, Title 67, Mississippi Code of 1972.

30        **SECTION 3.** Section 27-71-301, Mississippi Code of 1972, as  
31        amended by Senate Bill No. 2370, 2007 Regular Session, is amended  
32        as follows:

33        27-71-301. When used in this article the words and terms  
34        hereafter mentioned shall have the following definitions:

35                (a) "State Auditor" means the State Auditor of Public  
36        Accounts of the State of Mississippi or any legally appointed  
37        deputy, clerk or agent.

38                (b) "Person" includes all natural persons or  
39        corporations, a partnership, an association, a joint venture, an  
40        estate, a trust, or any other group or combination acting as a

41 unit and shall include the plural as well as the singular unless  
42 an intention to give another meaning thereto is disclosed in the  
43 context.

44 (c) "Consumer" means a person who comes into the  
45 possession of beer or light wine, the sale of which is authorized  
46 by Chapter 3 of Title 67, Mississippi Code of 1972, for the  
47 purpose of consuming it, giving it away or otherwise disposing of  
48 it in any manner except by sale, barter or exchange.

49 (d) "Retailer" means any person who comes into the  
50 possession of such light wines or beer for the purpose of selling  
51 it to the consumer, or giving it away, or exposing it where it may  
52 be taken or purchased or acquired in any other manner by the  
53 consumer.

54 (e) "Wholesaler" means any person who comes into  
55 possession of such light wine or beer for the purpose of selling,  
56 distributing, or giving it away to retailers or other wholesalers  
57 or dealers inside or outside of this state.

58 (f) "Commissioner" means the Chairman of the State Tax  
59 Commission or his duly appointed agents or employees.

60 (g) "Sale" includes the exchange of such light wines or  
61 beer for money, or giving away or distributing any such light  
62 wines or beer for anything of value.

63 (h) "Light wines or beer" means beer and light wines  
64 legalized for sale by the provisions of Chapter 3 of Title 67,  
65 Mississippi Code of 1972.

66 (i) "Distributor" includes every person who receives  
67 either from within or from without this state, from a brewery, a  
68 winery or any other source, light wines or beer as defined in  
69 Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose  
70 of distributing or otherwise disposing of such light wines or beer  
71 to a wholesaler or retailer of such light wines or beer.

72           (j) "Brewpub" means the premises of any restaurant, as  
73 defined in Section 67-1-5, Mississippi Code of 1972, in which  
74 light wine or beer is manufactured or brewed, subject to the  
75 production limitation imposed in Section 67-3-22, for consumption  
76 exclusively on the premises. "Premises," for the purpose of this  
77 paragraph (j) for a brewpub operated by a hospitality operator,  
78 means only those areas immediately adjacent and connected to the  
79 brewing facility where food is normally sold and consumed.  
80 "Premises," for the purposes of this paragraph (j) for a brewpub  
81 not operated by a hospitality operator, means those areas normally  
82 used by the brewpub to conduct business and shall include the  
83 selling areas, brewing areas and storage areas. For purposes of  
84 this paragraph (j), hospitality operator shall have the meaning  
85 ascribed to such term in Section 67-33-22.

86       \* \* \*

87       **SECTION 4.** Section 67-1-5, Mississippi Code of 1972, is  
88 amended as follows:

89       67-1-5. For the purposes of this chapter and unless  
90 otherwise required by the context:

91           (a) "Alcoholic beverage" means any alcoholic liquid,  
92 including wines of more than five percent (5%) of alcohol by  
93 weight, capable of being consumed as a beverage by a human being,  
94 but shall not include wine containing five percent (5%) or less of  
95 alcohol by weight and shall not include beer containing not more  
96 than five percent (5%) of alcohol by weight, as provided for in  
97 Section 67-3-5, Mississippi Code of 1972, but shall include native  
98 wines. The words "alcoholic beverage" shall not include ethyl  
99 alcohol manufactured or distilled solely for fuel purposes.

100          (b) "Alcohol" means the product of distillation of any  
101 fermented liquid, whatever the origin thereof, and includes  
102 synthetic ethyl alcohol, but does not include denatured alcohol or  
103 wood alcohol.

104           (c) "Distilled spirits" means any beverage containing  
105 more than four percent (4%) of alcohol by weight produced by  
106 distillation of fermented grain, starch, molasses or sugar,  
107 including dilutions and mixtures of these beverages.

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

112           (e) "Person" means and includes any individual,  
113 partnership, corporation, association or other legal entity  
114 whatsoever.

115           (f) "Manufacturer" means any person engaged in  
116 manufacturing, distilling, rectifying, blending or bottling any  
117 alcoholic beverage.

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

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

125           (i) "Commission" means the State Tax Commission of the  
126 State of Mississippi, which shall create a division in its  
127 organization to be known as the Alcoholic Beverage Control  
128 Division. Any reference to the commission hereafter means the  
129 powers and duties of the State Tax Commission with reference to  
130 supervision of the Alcoholic Beverage Control Division.

131           (j) "Division" means the Alcoholic Beverage Control  
132 Division of the State Tax Commission.

133           (k) "Municipality" means any incorporated city or town  
134 of this state.

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the commission, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

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

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

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

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

170                   (iii) Maintained by its members through the  
171 payment of annual dues;

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

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

180                   (vi) No member, officer, agent or employee of  
181 which is paid, or directly or indirectly receives, in the form of  
182 a salary or other compensation any profit from the distribution or  
183 sale of alcoholic beverages to the club or to members or guests of  
184 the club beyond such salary or compensation as may be fixed and  
185 voted at a proper meeting by the board of directors or other  
186 governing body out of the general revenues of the club.

187       The commission may, in its discretion, waive the five-year  
188 provision of this paragraph. In order to qualify under this  
189 paragraph, a club must file with the commission, at the time of  
190 its application for a license under this chapter, two (2) copies  
191 of a list of the names and residences of its members and similarly  
192 file, within ten (10) days after the election of any additional  
193 member, his name and address. Each club applying for a license  
194 shall also file with the commission at the time of the application  
195 a copy of its articles of association, charter of incorporation,  
196 bylaws or other instruments governing the business and affairs  
197 thereof.

198           (o) "Qualified resort area" means any area or locality  
199 outside of the limits of incorporated municipalities in this state  
200 commonly known and accepted as a place which regularly and  
201 customarily attracts tourists, vacationists and other transients  
202 because of its historical, scenic or recreational facilities or  
203 attractions, or because of other attributes which regularly and  
204 customarily appeal to and attract tourists, vacationists and other  
205 transients in substantial numbers; however, no area or locality  
206 shall so qualify as a resort area until it has been duly and  
207 properly approved as such by the commission.

208           (i) The commission may approve an area or locality  
209 outside of the limits of an incorporated municipality that is in  
210 the process of being developed as a qualified resort area if such  
211 area or locality, when developed, can reasonably be expected to  
212 meet the requisites of the definition of the term "qualified  
213 resort area." In such a case, the status of qualified resort area  
214 shall not take effect until completion of the development.

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

223           (iii) The term includes:

224                   1. The clubhouses associated with the state  
225 park golf courses at the Lefleur's Bluff State Park, the John Kyle  
226 State Park, the Percy Quin State Park and the Hugh White State  
227 Park; \* \* \*

228                   2. The clubhouse and associated golf course  
229 where the golf course is adjacent to one or more planned

230 residential developments and the golf course and all such  
231 developments collectively include at least seven hundred fifty  
232 (750) acres and at least three hundred (300) residential units;  
233 and

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

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

242 (p) "Native wine" means any product, produced in  
243 Mississippi for sale, having an alcohol content not to exceed  
244 twenty-one percent (21%) by weight and made in accordance with  
245 revenue laws of the United States, which shall be obtained  
246 primarily from the alcoholic fermentation of the juice of ripe  
247 grapes, fruits, berries or vegetables grown and produced in  
248 Mississippi; provided that bulk, concentrated or fortified wines  
249 used for blending may be produced without this state and used in  
250 producing native wines. The commission shall adopt and promulgate  
251 rules and regulations to permit a producer to import such bulk  
252 and/or fortified wines into this state for use in blending with  
253 native wines without payment of any excise tax that would  
254 otherwise accrue thereon.

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

258 (r) "Bed and breakfast inn" means an establishment  
259 within a municipality where in consideration of payment, breakfast  
260 and lodging are habitually furnished to travelers and wherein are  
261 located not less than eight (8) and not more than nineteen (19)



262 adequately furnished and completely separate sleeping rooms with  
263 adequate facilities, that persons usually apply for and receive as  
264 overnight accommodations; however, such restriction on the minimum  
265 number of sleeping rooms shall not apply to establishments on the  
266 National Register of Historic Places. No place shall qualify as a  
267 bed and breakfast inn under this chapter unless on the date of the  
268 initial application for a license under this chapter more than  
269 fifty percent (50%) of the sleeping rooms are located in a  
270 structure formerly used as a residence.

271       **SECTION 5.** Section 67-1-7, Mississippi Code of 1972, is  
272 amended as follows:

273       67-1-7. (1) Except as otherwise provided in Section 67-9-1  
274 for the transportation and possession of limited amounts of  
275 alcoholic beverages for the use of an alcohol processing  
276 permittee, and subject to all of the provisions and restrictions  
277 contained in this chapter, the manufacture, sale, distribution,  
278 possession and transportation of alcoholic beverages shall be  
279 lawful, subject to the restrictions hereinafter imposed, in those  
280 counties and municipalities of this state in which, at a local  
281 option election called and held for that purpose under the  
282 provisions of this chapter, a majority of the qualified electors  
283 voting in such election shall vote in favor thereof. Except as  
284 otherwise provided in Section 67-1-51 for holders of a caterer's  
285 permit, the manufacture, sale and distribution of alcoholic  
286 beverages shall not be permissible or lawful in counties except in  
287 (a) incorporated municipalities located within such counties, (b)  
288 qualified resort areas within such counties approved as such by  
289 the State Tax Commission, or (c) clubs within such counties,  
290 whether within a municipality or not. The manufacture, sale,  
291 distribution and possession of native wines shall be lawful in any  
292 location within any such county except those locations where the

293 manufacture, sale or distribution is prohibited by law other than  
294 this section or by regulations of the commission.

295 (2) Notwithstanding the foregoing, within any state park or  
296 any state park facility which has been declared a qualified resort  
297 area by the commission and any clubhouse, facility or golf course  
298 that is a qualified resort area under Section 67-1-5(o)(iii), an  
299 on-premises retailer's permit may be issued for the clubhouse or  
300 facility and the permittee may lawfully sell alcoholic beverages  
301 for consumption on his licensed premises regardless of whether or  
302 not the county or municipality in which the park or clubhouse is  
303 located has voted in favor of coming out from under the dry law,  
304 and it shall be lawful to receive, store, sell, possess and  
305 consume alcoholic beverages on the licensed premises, and to sell,  
306 distribute and transport alcoholic beverages to the licensed  
307 premises.

308 **SECTION 6.** This act shall take effect and be in force from  
309 and after July 1, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE THE CHAIRMAN OF THE STATE TAX COMMISSION  
2 TO ISSUE PERMITS TO RETAILERS LOCATED ON A GOLF COURSE A PERMIT TO  
3 SELL LIGHT WINE OR BEER ON THE GOLF COURSE FROM HOSPITALITY CARTS;  
4 TO AMEND SECTION 27-71-301, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
5 THERETO; TO AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, TO  
6 REDUCE THE NUMBER OF ADJACENT RESIDENTIAL UNITS NECESSARY FOR A  
7 CLUBHOUSE AND ITS ASSOCIATED GOLF COURSE TO FALL UNDER THE  
8 DEFINITION OF THE TERM "QUALIFIED RESORT AREA"; TO INCLUDE WITHIN  
9 THE DEFINITION OF THE TERM "QUALIFIED RESORT AREA" UNDER THE LOCAL  
10 OPTION ALCOHOLIC BEVERAGE CONTROL LAW, ANY FACILITY LOCATED ON  
11 PROPERTY THAT IS A GAME RESERVE WITH RESTRICTED ACCESS THAT  
12 CONSISTS OF AT LEAST 3,000 CONTIGUOUS ACRES WITH NO PUBLIC ROADS  
13 AND OFFERS AS A SERVICE HUNTS FOR A FEE TO OVERNIGHT GUESTS OF THE  
14 FACILITY; TO AMEND SECTION 67-1-7, MISSISSIPPI CODE OF 1972, TO  
15 AUTHORIZE THE SALE OF ALCOHOLIC BEVERAGES AS SUCH FACILITIES

16 REGARDLESS OF WHETHER THE COUNTY IN WHICH THE FACILITY IS LOCATED  
17 HAS VOTED IN FAVOR OF COMING OUT FROM UNDER THE DRY LAWS; AND FOR  
18 RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)  
Watson  
  
X (SIGNED)  
Moak  
  
X (SIGNED)  
Robinson (63rd)

CONFEREES FOR THE SENATE

X (SIGNED)  
Robertson  
  
X (SIGNED)  
Hewes  
  
X (SIGNED)  
Doxey