

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Cmte Sub for Senate Bill No. 2370

BY: Senator(s) Robertson

1 **AMEND** line 284 by inserting the following after the word "a":
2 "package retailer's or on-premises retailer's"

3 **FURTHER, AMEND** by inserting the following after line 493 and
4 **renumbering subsequent sections accordingly:**

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

7 27-71-5. (1) Upon each person approved for a permit under
8 the provisions of the Alcoholic Beverage Control Law and
9 amendments thereto, there is levied and imposed for each location
10 for the privilege of engaging and continuing in this state in the
11 business authorized by such permit, an annual privilege license
12 tax in the amount provided in the following schedule:

- 13 (a) Except as otherwise provided in this subsection
14 (1), manufacturer's permit, Class 1, distiller's and/or
15 rectifier's..... \$4,500.00
16 (b) Manufacturer's permit, Class 2, wine manufacturer
17 \$1,800.00
18 (c) Manufacturer's permit, Class 3, native wine
19 manufacturer per ten thousand (10,000) gallons or part thereof
20 produced..... \$ 10.00
21 (d) Native wine retailer's permit..... \$ 50.00
22 (e) Package retailer's permit, each..... \$ 900.00

23 (f) On-premises retailer's permit, except for clubs and
24 common carriers, each..... \$ 450.00
25 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
26 for each additional Five Thousand Dollars (\$5,000.00), or fraction
27 thereof..... \$ 225.00
28 (g) On-premises retailer's permit for wine of more than
29 five percent (5%) alcohol by weight, but not more than twenty-one
30 percent (21%) alcohol by weight, each..... \$ 225.00
31 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
32 for each additional Five Thousand Dollars (\$5,000.00), or fraction
33 thereof..... \$ 225.00
34 (h) On-premises retailer's permit for clubs.. \$ 225.00
35 On purchases exceeding Five Thousand Dollars (\$5,000.00)
36 and for each additional Five Thousand Dollars (\$5,000.00), or
37 fraction thereof..... \$ 225.00
38 (i) On-premises retailer's permit for common carriers,
39 per car, plane, or other vehicle..... \$ 120.00
40 (j) Solicitor's permit, regardless of any other
41 provision of law, solicitor's permits shall be issued only in the
42 discretion of the commission..... \$ 100.00
43 (k) Filing fee for each application except for an
44 employee identification card..... \$ 25.00
45 (l) Temporary permit, Class 1, each..... \$ 10.00
46 (m) Temporary permit, Class 2, each..... \$ 50.00
47 On-premises purchases exceeding Five Thousand Dollars
48 (\$5,000.00) and for each additional Five Thousand Dollars
49 (\$5,000.00), or fraction thereof..... \$ 225.00
50 (n) (i) Caterer's permit..... \$ 600.00
51 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
52 for each additional Five Thousand Dollars (\$5,000.00), or fraction
53 thereof..... \$ 250.00

54 (ii) Caterer's permit for holders of on-premises
55 retailer's permit..... \$ 150.00
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..... \$ 250.00
59 (o) Research permit..... \$ 100.00
60 (p) Hospitality cart permit..... \$ 50.00

61 For purposes of the additional privilege license tax provided
62 for in paragraph (f) of this subsection, purchases from a
63 hospitality cart shall be considered to be sales made by the
64 holder of the on-premises retailer's permit issued for the golf
65 course upon which the sales are made.

66 If a person approved for a manufacturer's permit, Class 1,
67 distiller's permit produces a product with at least fifty-one
68 percent (51%) of the finished product by volume being obtained
69 from alcoholic fermentation of grapes, fruits, berries, honey
70 and/or vegetables grown and produced in Mississippi, and produces
71 all of the product by using not more than one (1) still having a
72 maximum capacity of one hundred fifty (150) liters, the annual
73 privilege license tax for such a permit shall be Ten Dollars
74 (\$10.00) per ten thousand (10,000) gallons or part thereof
75 produced. Bulk, concentrated or fortified ingredients used for
76 blending may be produced outside this state and used in producing
77 such a product.

78 In addition to the filing fee imposed by item (k) of this
79 subsection, a fee to be determined by the State Tax Commission may
80 be charged to defray costs incurred to process applications. The
81 additional fees shall be paid into the State Treasury to the
82 credit of a special fund account, which is hereby created, and
83 expenditures therefrom shall be made only to defray the costs
84 incurred by the State Tax Commission in processing alcoholic
85 beverage applications. Any unencumbered balance remaining in the

86 special fund account on June 30 of any fiscal year shall lapse
87 into the State General Fund.

88 All privilege taxes imposed by this section shall be paid in
89 advance of doing business. The additional privilege tax imposed
90 for an on-premises retailer's permit based upon purchases shall be
91 due and payable on demand.

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

99 (2) There is imposed and shall be collected from each
100 permittee, except a common carrier, solicitor or a temporary
101 permittee, by the commission, an additional license tax equal to
102 the amounts imposed under subsection (1) of this section for the
103 privilege of doing business within any municipality or county in
104 which the licensee is located. If the licensee is located within
105 a municipality, the commission shall pay the amount of additional
106 license tax to the municipality, and if outside a municipality the
107 commission shall pay the additional license tax to the county in
108 which the licensee is located. Payments by the commission to the
109 respective local government subdivisions shall be made once each
110 month for any collections during the preceding month.

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

117 (4) The number of permits issued by the commission shall not
118 be restricted or limited on a population basis; however, the
119 foregoing limitation shall not be construed to preclude the right
120 of the commission to refuse to issue a permit because of the
121 undesirability of the proposed location.

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

130 (6) It shall be unlawful for any person to consume alcoholic
131 beverages on the premises of any hotel restaurant, restaurant,
132 club or the interior of any public place defined in Chapter 1,
133 Title 67, Mississippi Code of 1972, when the owner or manager
134 thereof displays in several conspicuous places inside the
135 establishment and at the entrances of establishment a sign
136 containing the following language: NO ALCOHOLIC BEVERAGES
137 ALLOWED.

138 **SECTION *.** Section 27-71-301, Mississippi Code of 1972, is
139 amended as follows:

140 27-71-301. When used in this article the words and terms
141 hereafter mentioned shall have the following definitions:

142 (a) "State Auditor" means the State Auditor of Public
143 Accounts of the State of Mississippi or any legally appointed
144 deputy, clerk or agent.

145 (b) "Person" includes all natural persons or
146 corporations, a partnership, an association, a joint venture, an
147 estate, a trust, or any other group or combination acting as a
148 unit and shall include the plural as well as the singular unless

149 an intention to give another meaning thereto is disclosed in the
150 context.

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

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

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

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

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

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

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

179 (j) "Brewpub" means the premises of any restaurant, as
180 defined in Section 67-1-5, Mississippi Code of 1972, in which

181 light wine or beer is manufactured or brewed, subject to the
182 production limitation imposed in Section 67-3-22, for consumption
183 exclusively on the premises. "Premises," for the purpose of this
184 paragraph (j) for a brewpub operated by a hospitality operator,
185 means only those areas immediately adjacent and connected to the
186 brewing facility where food is normally sold and consumed.

187 "Premises," for the purposes of this paragraph (j) for a brewpub
188 not operated by a hospitality operator, means those areas normally
189 used by the brewpub to conduct business and shall include the
190 selling areas, brewing areas and storage areas. For purposes of
191 this paragraph (j), hospitality operator shall have the meaning
192 ascribed to such term in Section 67-33-22.

193 (k) "Hospitality cart" means a mobile cart from which
194 alcoholic beverages and light wine and beer are sold on a golf
195 course and for which a hospitality cart permit has been issued
196 under Section 67-1-51.

197 **SECTION *.** Section 27-71-303, Mississippi Code of 1972, is
198 amended as follows:

199 27-71-303. Upon each person approved for a permit to engage
200 in the business of selling light wines or beer there is hereby
201 imposed, levied and assessed, to be collected and paid as herein
202 provided, annual privilege taxes in the following amounts:

- 203 (a) Retailers--for each place of
204 business..... \$ 30.00
- 205 (b) Wholesalers or distributors--for each
206 county..... \$ 100.00
- 207 (c) Manufacturers--for each place of
208 business..... \$1,000.00
- 209 (d) Brewpubs--for each place of
210 business..... \$1,000.00

211 Upon each person operating an airline, bus, boat, railroad
212 car or hospitality cart upon which light wines or beer may be sold

213 there is hereby imposed, levied and assessed, to be collected and
214 paid, annual privilege taxes of Thirty Dollars (\$30.00) for each
215 airplane, bus, boat, railroad car or hospitality cart so operated
216 in this state.

217 Provided, however, the amount of the privilege tax to be paid
218 for a permit issued for a period of less than twelve (12) months
219 shall be that proportionate amount of the annual privilege tax
220 that the number of months, or part of a month, remaining until its
221 expiration date bears to twelve (12) months, but in no case shall
222 the privilege tax be less than Ten Dollars (\$10.00).

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

225 67-1-51. (1) Permits which may be issued by the commission
226 shall be as follows:

227 (a) **Manufacturer's permit.** A manufacturer's permit
228 shall permit the manufacture, importation in bulk, bottling and
229 storage of alcoholic liquor and its distribution and sale to
230 manufacturers holding permits under this chapter in this state and
231 to persons outside the state who are authorized by law to purchase
232 the same, and to sell exclusively to the commission.

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

234 Class 1. Distiller's and/or rectifier's permit, which shall
235 authorize the holder thereof to operate a distillery for the
236 production of distilled spirits by distillation or redistillation
237 and/or to operate a rectifying plant for the purifying, refining,
238 mixing, blending, flavoring or reducing in proof of distilled
239 spirits and alcohol.

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

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

246 (b) **Package retailer's permit.** Except as otherwise
247 provided in this paragraph, a package retailer's permit shall
248 authorize the holder thereof to operate a store exclusively for
249 the sale at retail in original sealed and unopened packages of
250 alcoholic beverages, including native wines, not to be consumed on
251 the premises where sold. Alcoholic beverages shall not be sold by
252 any retailer in any package or container containing less than
253 fifty (50) milliliters by liquid measure. In addition to the sale
254 at retail of packages of alcoholic beverages, the holder of a
255 package retailer's permit is authorized to sell at retail
256 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
257 other beverages commonly used to mix with alcoholic beverages.
258 Nonalcoholic beverages sold by the holder of a package retailer's
259 permit shall not be consumed on the premises where sold.

260 (c) **On-premises retailer's permit.** An on-premises
261 retailer's permit shall authorize the sale of alcoholic beverages,
262 including native wines, for consumption on the licensed premises
263 only. Such a permit shall issue only to qualified hotels,
264 restaurants and clubs, and to common carriers with adequate
265 facilities for serving passengers. In resort areas, whether
266 inside or outside of a municipality, the commission may, in its
267 discretion, issue on-premises retailer's permits to such
268 establishments as it deems proper. An on-premises retailer's
269 permit when issued to a common carrier shall authorize the sale
270 and serving of alcoholic beverages aboard any licensed vehicle
271 while moving through any county of the state; however, the sale of
272 such alcoholic beverages shall not be permitted while such vehicle
273 is stopped in a county that has not legalized such sales.

274 (d) **Solicitor's permit.** A solicitor's permit shall
275 authorize the holder thereof to act as salesman for a manufacturer
276 or wholesaler holding a proper permit, to solicit on behalf of his
277 employer orders for alcoholic beverages, and to otherwise promote
278 his employer's products in a legitimate manner. Such a permit
279 shall authorize the representation of and employment by one (1)
280 principal only. However, the permittee may also, in the
281 discretion of the commission, be issued additional permits to
282 represent other principals. No such permittee shall buy or sell
283 alcoholic beverages for his own account, and no such beverage
284 shall be brought into this state in pursuance of the exercise of
285 such permit otherwise than through a permit issued to a wholesaler
286 or manufacturer in the state.

287 (e) **Native wine retailer's permit.** A native wine
288 retailer's permit shall be issued only to a holder of a Class 3
289 manufacturer's permit, and shall authorize the holder thereof to
290 make retail sales of native wines to consumers for on-premises
291 consumption or to consumers in originally sealed and unopened
292 containers at an establishment located on the premises of or in
293 the immediate vicinity of a native winery.

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

298 Temporary retailer's permits shall be of the following
299 classes:

300 Class 1. A temporary one-day permit may be issued to bona
301 fide nonprofit civic or charitable organizations authorizing the
302 sale of alcoholic beverages, including native wine, for
303 consumption on the premises described in the temporary permit
304 only. Class 1 permits may be issued only to applicants
305 demonstrating to the commission, by affidavit submitted ten (10)

306 days prior to the proposed date or such other time as the
307 commission may determine, that they meet the qualifications of
308 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
309 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
310 obtain all alcoholic beverages from package retailers located in
311 the county in which the temporary permit is issued. Alcoholic
312 beverages remaining in stock upon expiration of the temporary
313 permit may be returned by the permittee to the package retailer
314 for a refund of the purchase price upon consent of the package
315 retailer or may be kept by the permittee exclusively for personal
316 use and consumption, subject to all laws pertaining to the illegal
317 sale and possession of alcoholic beverages. The commission,
318 following review of the affidavit and the requirements of the
319 applicable statutes and regulations, may issue the permit.

320 Class 2. A temporary permit, not to exceed seventy (70)
321 days, may be issued to prospective permittees seeking to transfer
322 a permit authorized in either paragraph (b) or (c) of this
323 section. A Class 2 permit may be issued only to applicants
324 demonstrating to the commission, by affidavit, that they meet the
325 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
326 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
327 commission, following a preliminary review of the affidavit and
328 the requirements of the applicable statutes and regulations, may
329 issue the permit.

330 Class 2 temporary permittees must purchase their alcoholic
331 beverages directly from the commission or, with approval of the
332 commission, purchase the remaining stock of the previous
333 permittee. If the proposed applicant of a Class 1 or Class 2
334 temporary permit falsifies information contained in the
335 application or affidavit, the applicant shall never again be
336 eligible for a retail alcohol beverage permit and shall be subject
337 to prosecution for perjury.

338 (g) **Caterer's permit.** A caterer's permit shall permit
339 the purchase of alcoholic beverages by a person engaging in
340 business as a caterer and the resale of alcoholic beverages by
341 such person in conjunction with such catering business. No person
342 shall qualify as a caterer unless forty percent (40%) or more of
343 the revenue derived from such catering business shall be from the
344 serving of prepared food and not from the sale of alcoholic
345 beverages and unless such person has obtained a permit for such
346 business from the Department of Health. A caterer's permit shall
347 not authorize the sale of alcoholic beverages on the premises of
348 the person engaging in business as a caterer; however, the holder
349 of an on-premises retailer's permit may hold a caterer's permit.
350 When the holder of an on-premises retailer's permit or an
351 affiliated entity of the holder also holds a caterer's permit, the
352 caterer's permit shall not authorize the service of alcoholic
353 beverages on a consistent, recurring basis at a separate, fixed
354 location owned or operated by the caterer, on-premises retailer or
355 affiliated entity and an on-premises retailer's permit shall be
356 required for the separate location. All sales of alcoholic
357 beverages by holders of a caterer's permit shall be made at the
358 location being catered by the caterer, and such sales may be made
359 only for consumption at the catered location. The location being
360 catered may be anywhere within a county or judicial district that
361 has voted to come out from under the dry laws or in which the
362 sale, distribution and possession of alcoholic beverages is
363 otherwise authorized by law. Such sales shall be made pursuant to
364 any other conditions and restrictions which apply to sales made by
365 on-premises retail permittees. The holder of a caterer's permit
366 or his employees shall remain at the catered location as long as
367 alcoholic beverages are being sold pursuant to the permit issued
368 under this paragraph (g), and the permittee shall have at the
369 location the identification card issued by the Alcoholic Beverage

370 Control Division of the commission. No unsold alcoholic beverages
371 may be left at the catered location by the permittee upon the
372 conclusion of his business at that location. Appropriate law
373 enforcement officers and Alcoholic Beverage Control Division
374 personnel may enter a catered location on private property in
375 order to enforce laws governing the sale or serving of alcoholic
376 beverages.

377 (h) **Research permit.** A research permit shall authorize
378 the holder thereof to operate a research facility for the
379 professional research of alcoholic beverages. Such permit shall
380 authorize the holder of the permit to import and purchase limited
381 amounts of alcoholic beverages from the commission or from
382 importers, wineries and distillers of alcoholic beverages for
383 professional research.

384 (i) **Alcohol processing permit.** An alcohol processing
385 permit shall authorize the holder thereof to purchase, transport
386 and possess alcoholic beverages for the exclusive use in cooking,
387 processing or manufacturing products which contain alcoholic
388 beverages as an integral ingredient. An alcohol processing permit
389 shall not authorize the sale of alcoholic beverages on the
390 premises of the person engaging in the business of cooking,
391 processing or manufacturing products which contain alcoholic
392 beverages. The amounts of alcoholic beverages allowed under an
393 alcohol processing permit shall be set by the commission.

394 (j) **Hospitality cart permit.** A hospitality cart permit
395 shall authorize the sale of alcoholic beverages from a mobile cart
396 on a golf course that is the holder of an on-premises retailer's
397 permit. The alcoholic beverages sold from the cart must be
398 consumed within the boundaries of the golf course.

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

402 (3) Except as otherwise provided in this subsection, no
403 authority shall be granted to any person to manufacture, sell or
404 store for sale any intoxicating liquor as specified in this
405 chapter within four hundred (400) feet of any church, school,
406 kindergarten or funeral home. However, within an area zoned
407 commercial or business, such minimum distance shall be not less
408 than one hundred (100) feet.

409 A church or funeral home may waive the distance restrictions
410 imposed in this subsection in favor of allowing issuance by the
411 commission of a permit, pursuant to subsection (1) of this
412 section, to authorize activity relating to the manufacturing, sale
413 or storage of alcoholic beverages which would otherwise be
414 prohibited under the minimum distance criterion. Such waiver
415 shall be in written form from the owner, the governing body, or
416 the appropriate officer of the church or funeral home having the
417 authority to execute such a waiver, and the waiver shall be filed
418 with and verified by the commission before becoming effective.

419 The distance restrictions imposed in this subsection shall
420 not apply to the sale or storage of alcoholic beverages at a bed
421 and breakfast inn listed in the National Register of Historic
422 Places.

423 (4) No person, either individually or as a member of a firm,
424 partnership, limited liability company or association, or as a
425 stockholder, officer or director in a corporation, shall own or
426 control any interest in more than one (1) package retailer's
427 permit, nor shall such person's spouse, if living in the same
428 household of such person, any relative of such person, if living
429 in the same household of such person, or any other person living
430 in the same household with such person own any interest in any
431 other package retailer's permit.

432 **FURTHER AMEND line 26 of the title by inserting the following**
433 **after the semicolon:**

434 TO AMEND SECTIONS 27-71-5, 27-71-301, 27-71-303 AND 67-1-51,
435 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE SALE OF ALCOHOLIC
436 BEVERAGES AND LIGHT WINE AND BEER FROM MOBILE CARTS ON A GOLF
437 COURSE IF THE GOLF COURSE IS THE HOLDER OF AN ON-PREMISES
438 RETAILER'S PERMIT;