

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 731

1 AN ACT TO AMEND SECTIONS 67-1-5, 67-3-1, 67-3-3, 67-3-5,
2 67-3-7, 67-3-9, 67-3-13, 67-3-17, 67-3-28, 67-3-49, 67-3-53 AND
3 27-71-509, MISSISSIPPI CODE OF 1972, TO INCREASE THE PERMISSIBLE
4 ALCOHOLIC CONTENT OF BEER FROM 5% OF ALCOHOL BY WEIGHT TO 10% OF
5 ALCOHOL BY WEIGHT; AND FOR RELATED PURPOSES.

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

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

9 **[Through June 30, 2010, this section shall read as follows:]**

10 67-1-5. For the purposes of this chapter and unless
11 otherwise required by the context:

12 (a) "Alcoholic beverage" means any alcoholic liquid,
13 including wines of more than five percent (5%) of alcohol by
14 weight, capable of being consumed as a beverage by a human being,
15 but shall not include wine containing five percent (5%) or less of
16 alcohol by weight and shall not include beer containing not more
17 than ten percent (10%) of alcohol by weight, as provided for in
18 Section 67-3-5, Mississippi Code of 1972, but shall include native
19 wines. The words "alcoholic beverage" shall not include ethyl
20 alcohol manufactured or distilled solely for fuel purposes.

21 (b) "Alcohol" means the product of distillation of any
22 fermented liquid, whatever the origin thereof, and includes
23 synthetic ethyl alcohol, but does not include denatured alcohol or
24 wood alcohol.

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



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

33 (e) "Person" means and includes any individual,
34 partnership, corporation, association or other legal entity
35 whatsoever.

36 (f) "Manufacturer" means any person engaged in
37 manufacturing, distilling, rectifying, blending or bottling any
38 alcoholic beverage.

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

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

46 (i) "Commission" means the State Tax Commission of the
47 State of Mississippi, which shall create a division in its
48 organization to be known as the Alcoholic Beverage Control
49 Division. Any reference to the commission hereafter means the
50 powers and duties of the State Tax Commission with reference to
51 supervision of the Alcoholic Beverage Control Division.

52 (j) "Division" means the Alcoholic Beverage Control
53 Division of the State Tax Commission.

54 (k) "Municipality" means any incorporated city or town
55 of this state.

56 (l) "Hotel" means an establishment within a
57 municipality, or within a qualified resort area approved as such
58 by the commission, where, in consideration of payment, food and
59 lodging are habitually furnished to travelers and wherein are
60 located at least twenty (20) adequately furnished and completely
61 separate sleeping rooms with adequate facilities that persons



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

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

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

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

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

91 (iii) Maintained by its members through the
92 payment of annual dues;

93 (iv) Owning, hiring or leasing a building or space
94 in a building of such extent and character as may be suitable and



95 adequate for the reasonable and comfortable use and accommodation
96 of its members and their guests;

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

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

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

119 (o) "Qualified resort area" means any area or locality
120 outside of the limits of incorporated municipalities in this state
121 commonly known and accepted as a place which regularly and
122 customarily attracts tourists, vacationists and other transients
123 because of its historical, scenic or recreational facilities or
124 attractions, or because of other attributes which regularly and
125 customarily appeal to and attract tourists, vacationists and other
126 transients in substantial numbers; however, no area or locality



127 shall so qualify as a resort area until it has been duly and
128 properly approved as such by the commission.

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

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

144 (iii) The term includes:

145 1. The clubhouses associated with the state
146 park golf courses at the Lefleur's Bluff State Park, the John Kyle
147 State Park, the Percy Quin State Park and the Hugh White State
148 Park;

149 2. The clubhouse and associated golf course
150 where the golf course is adjacent to one or more planned
151 residential developments and the golf course and all such
152 developments collectively include at least seven hundred fifty
153 (750) acres and at least four hundred (400) residential units;

154 3. Any facility located on property that is a
155 game reserve with restricted access that consists of at least
156 three thousand (3,000) contiguous acres with no public roads and
157 that offers as a service hunts for a fee to overnight guests of
158 the facility;



159 4. Any facility located on federal property
160 surrounding a lake and designated as a recreational area by the
161 United States Army Corps of Engineers that consists of at least
162 one thousand five hundred (1,500) acres;

163 5. Any facility that is located in a
164 municipality that is bordered by the Pearl River, traversed by
165 Mississippi Highway 25, adjacent to the boundaries of the Jackson
166 International Airport and is located in a county which has voted
167 against coming out from under the dry law; however, any such
168 facility may only be located in areas designated by the governing
169 authorities of such municipality;

170 6. Any municipality with a population in
171 excess of ten thousand (10,000) according to the latest federal
172 decennial census that is located in a county that is bordered by
173 the Pearl River and is not traversed by Interstate Highway 20,
174 with a population in excess of forty-five thousand (45,000)
175 according to the latest federal decennial census;

176 7. The West Pearl Restaurant Tax District as
177 defined in Chapter 912, Local and Private Laws of 2007.

178 The status of these municipalities, districts, clubhouses,
179 facilities and golf courses described in subparagraph (iii) of
180 this paragraph (o) as qualified resort areas does not require any
181 declaration of same by the commission.

182 (p) "Native wine" means any product, produced in
183 Mississippi for sale, having an alcohol content not to exceed
184 twenty-one percent (21%) by weight and made in accordance with
185 revenue laws of the United States, which shall be obtained
186 primarily from the alcoholic fermentation of the juice of ripe
187 grapes, fruits, berries or vegetables grown and produced in
188 Mississippi; provided that bulk, concentrated or fortified wines
189 used for blending may be produced without this state and used in
190 producing native wines. The commission shall adopt and promulgate
191 rules and regulations to permit a producer to import such bulk



192 and/or fortified wines into this state for use in blending with
193 native wines without payment of any excise tax that would
194 otherwise accrue thereon.

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

198 (r) "Bed and breakfast inn" means an establishment
199 within a municipality where in consideration of payment, breakfast
200 and lodging are habitually furnished to travelers and wherein are
201 located not less than eight (8) and not more than nineteen (19)
202 adequately furnished and completely separate sleeping rooms with
203 adequate facilities, that persons usually apply for and receive as
204 overnight accommodations; however, such restriction on the minimum
205 number of sleeping rooms shall not apply to establishments on the
206 National Register of Historic Places. No place shall qualify as a
207 bed and breakfast inn under this chapter unless on the date of the
208 initial application for a license under this chapter more than
209 fifty percent (50%) of the sleeping rooms are located in a
210 structure formerly used as a residence.

211 (s) "Spa facility" means an establishment within a
212 municipality or qualified resort area and owned by a hotel where,
213 in consideration of payment, patrons receive from licensed
214 professionals a variety of private personal care treatments such
215 as massages, facials, waxes, exfoliation and hairstyling.

216 (t) "Art studio or gallery" means an establishment
217 within a municipality or qualified resort area, that is in the
218 sole business of allowing patrons to view and/or purchase
219 paintings and other creative artwork.

220 (u) "Cooking school" means an establishment within a
221 municipality or qualified resort area and owned by a nationally
222 recognized company that offers an established culinary education
223 curriculum and program where, in consideration of payment, patrons
224 are given scheduled professional group instruction on culinary



225 techniques. For purposes of this paragraph, the definition of
226 cooking school shall not include schools or classes offered by
227 grocery stores, convenience stores or drugstores.

228 **[From and after July 1, 2010, this section shall read as**
229 **follows:]**

230 67-1-5. For the purposes of this chapter and unless
231 otherwise required by the context:

232 (a) "Alcoholic beverage" means any alcoholic liquid,
233 including wines of more than five percent (5%) of alcohol by
234 weight, capable of being consumed as a beverage by a human being,
235 but shall not include wine containing five percent (5%) or less of
236 alcohol by weight and shall not include beer containing not more
237 than ten percent (10%) of alcohol by weight, as provided for in
238 Section 67-3-5, Mississippi Code of 1972, but shall include native
239 wines. The words "alcoholic beverage" shall not include ethyl
240 alcohol manufactured or distilled solely for fuel purposes.

241 (b) "Alcohol" means the product of distillation of any
242 fermented liquid, whatever the origin thereof, and includes
243 synthetic ethyl alcohol, but does not include denatured alcohol or
244 wood alcohol.

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

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

253 (e) "Person" means and includes any individual,
254 partnership, corporation, association or other legal entity
255 whatsoever.



256 (f) "Manufacturer" means any person engaged in
257 manufacturing, distilling, rectifying, blending or bottling any
258 alcoholic beverage.

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

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

266 (i) "State Tax Commission," "commission" or
267 "department" means the Department of Revenue of the State of
268 Mississippi, which shall create a division in its organization to
269 be known as the Alcoholic Beverage Control Division. Any
270 reference to the commission or the department hereafter means the
271 powers and duties of the Department of Revenue with reference to
272 supervision of the Alcoholic Beverage Control Division.

273 (j) "Division" means the Alcoholic Beverage Control
274 Division of the Department of Revenue.

275 (k) "Municipality" means any incorporated city or town
276 of this state.

277 (l) "Hotel" means an establishment within a
278 municipality, or within a qualified resort area approved as such
279 by the department, where, in consideration of payment, food and
280 lodging are habitually furnished to travelers and wherein are
281 located at least twenty (20) adequately furnished and completely
282 separate sleeping rooms with adequate facilities that persons
283 usually apply for and receive as overnight accommodations. Hotels
284 in towns or cities of more than twenty-five thousand (25,000)
285 population are similarly defined except that they must have fifty
286 (50) or more sleeping rooms. Any such establishment described in
287 this paragraph with less than fifty (50) beds shall operate one or
288 more regular dining rooms designed to be constantly frequented by



289 customers each day. When used in this chapter, the word "hotel"
290 shall also be construed to include any establishment that meets
291 the definition of "bed and breakfast inn" as provided in this
292 section.

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

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

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

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

312 (iii) Maintained by its members through the
313 payment of annual dues;

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

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



322 (vi) No member, officer, agent or employee of
323 which is paid, or directly or indirectly receives, in the form of
324 a salary or other compensation any profit from the distribution or
325 sale of alcoholic beverages to the club or to members or guests of
326 the club beyond such salary or compensation as may be fixed and
327 voted at a proper meeting by the board of directors or other
328 governing body out of the general revenues of the club.

329 The department may, in its discretion, waive the five-year
330 provision of this paragraph. In order to qualify under this
331 paragraph, a club must file with the department, at the time of
332 its application for a license under this chapter, two (2) copies
333 of a list of the names and residences of its members and similarly
334 file, within ten (10) days after the election of any additional
335 member, his name and address. Each club applying for a license
336 shall also file with the department at the time of the application
337 a copy of its articles of association, charter of incorporation,
338 bylaws or other instruments governing the business and affairs
339 thereof.

340 (o) "Qualified resort area" means any area or locality
341 outside of the limits of incorporated municipalities in this state
342 commonly known and accepted as a place which regularly and
343 customarily attracts tourists, vacationists and other transients
344 because of its historical, scenic or recreational facilities or
345 attractions, or because of other attributes which regularly and
346 customarily appeal to and attract tourists, vacationists and other
347 transients in substantial numbers; however, no area or locality
348 shall so qualify as a resort area until it has been duly and
349 properly approved as such by the department.

350 (i) The department may approve an area or locality
351 outside of the limits of an incorporated municipality that is in
352 the process of being developed as a qualified resort area if such
353 area or locality, when developed, can reasonably be expected to
354 meet the requisites of the definition of the term "qualified



355 resort area." In such a case, the status of qualified resort area
356 shall not take effect until completion of the development.

357 (ii) The term includes any state park which is
358 declared a resort area by the department; however, such
359 declaration may only be initiated in a written request for resort
360 area status made to the department by the Executive Director of
361 the Department of Wildlife, Fisheries and Parks, and no permit for
362 the sale of any alcoholic beverage, as defined in this chapter,
363 except an on-premises retailer's permit, shall be issued for a
364 hotel, restaurant or bed and breakfast inn in such park.

365 (iii) The term includes:

366 1. The clubhouses associated with the state
367 park golf courses at the Lefleur's Bluff State Park, the John Kyle
368 State Park, the Percy Quin State Park and the Hugh White State
369 Park;

370 2. The clubhouse and associated golf course
371 where the golf course is adjacent to one or more planned
372 residential developments and the golf course and all such
373 developments collectively include at least seven hundred fifty
374 (750) acres and at least four hundred (400) residential units;

375 3. Any facility located on property that is a
376 game reserve with restricted access that consists of at least
377 three thousand (3,000) contiguous acres with no public roads and
378 that offers as a service hunts for a fee to overnight guests of
379 the facility;

380 4. Any facility located on federal property
381 surrounding a lake and designated as a recreational area by the
382 United States Army Corps of Engineers that consists of at least
383 one thousand five hundred (1,500) acres;

384 5. Any facility that is located in a
385 municipality that is bordered by the Pearl River, traversed by
386 Mississippi Highway 25, adjacent to the boundaries of the Jackson
387 International Airport and is located in a county which has voted



388 against coming out from under the dry law; however, any such
389 facility may only be located in areas designated by the governing
390 authorities of such municipality;

391 6. Any municipality with a population in
392 excess of ten thousand (10,000) according to the latest federal
393 decennial census that is located in a county that is bordered by
394 the Pearl River and is not traversed by Interstate Highway 20,
395 with a population in excess of forty-five thousand (45,000)
396 according to the latest federal decennial census;

397 7. The West Pearl Restaurant Tax District as
398 defined in Chapter 912, Local and Private Laws of 2007.

399 The status of these municipalities, districts, clubhouses,
400 facilities and golf courses described in subparagraph (iii) of
401 this paragraph (o) as qualified resort areas does not require any
402 declaration of same by the department.

403 (p) "Native wine" means any product, produced in
404 Mississippi for sale, having an alcohol content not to exceed
405 twenty-one percent (21%) by weight and made in accordance with
406 revenue laws of the United States, which shall be obtained
407 primarily from the alcoholic fermentation of the juice of ripe
408 grapes, fruits, berries or vegetables grown and produced in
409 Mississippi; provided that bulk, concentrated or fortified wines
410 used for blending may be produced without this state and used in
411 producing native wines. The department shall adopt and promulgate
412 rules and regulations to permit a producer to import such bulk
413 and/or fortified wines into this state for use in blending with
414 native wines without payment of any excise tax that would
415 otherwise accrue thereon.

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

419 (r) "Bed and breakfast inn" means an establishment
420 within a municipality where in consideration of payment, breakfast



421 and lodging are habitually furnished to travelers and wherein are
422 located not less than eight (8) and not more than nineteen (19)
423 adequately furnished and completely separate sleeping rooms with
424 adequate facilities, that persons usually apply for and receive as
425 overnight accommodations; however, such restriction on the minimum
426 number of sleeping rooms shall not apply to establishments on the
427 National Register of Historic Places. No place shall qualify as a
428 bed and breakfast inn under this chapter unless on the date of the
429 initial application for a license under this chapter more than
430 fifty percent (50%) of the sleeping rooms are located in a
431 structure formerly used as a residence.

432 (s) "Board" shall refer to Board of Tax Appeals of the
433 State of Mississippi.

434 (t) "Spa facility" means an establishment within a
435 municipality or qualified resort area and owned by a hotel where,
436 in consideration of payment, patrons receive from licensed
437 professionals a variety of private personal care treatments such
438 as massages, facials, waxes, exfoliation and hairstyling.

439 (u) "Art studio or gallery" means an establishment
440 within a municipality or qualified resort area, that is in the
441 sole business of allowing patrons to view and/or purchase
442 paintings and other creative artwork.

443 (v) "Cooking school" means an establishment within a
444 municipality or qualified resort area and owned by a nationally
445 recognized company that offers an established culinary education
446 curriculum and program where, in consideration of payment, patrons
447 are given scheduled professional group instruction on culinary
448 techniques. For purposes of this paragraph, the definition of
449 cooking school shall not include schools or classes offered by
450 grocery stores, convenience stores or drugstores.

451 **SECTION 2.** Section 67-3-1, Mississippi Code of 1972, is
452 amended as follows:



453 67-3-1. The purpose of this chapter is to legalize the
454 manufacture and sale within this state of light wines * * * of an
455 alcoholic content of not more than five percent (5%) by weight,
456 and of beer of an alcoholic content of not more than ten percent
457 (10%) by weight, and to regulate the business of manufacturing and
458 of selling such liquors so as to prevent their illicit
459 manufacture, sale and consumption * * *, the manufacture and sale
460 of which it is not the purpose of this chapter to legalize.

461 **SECTION 3.** Section 67-3-3, Mississippi Code of 1972, is
462 amended as follows:

463 67-3-3. When used in this chapter, unless the context
464 indicates otherwise:

465 (a) "Commissioner" means the Commissioner of Revenue of
466 the Department of Revenue of the State of Mississippi, and his
467 authorized agents and employees;

468 (b) "Person" means one or more persons, a company, a
469 corporation, a partnership, a syndicate or an association;

470 (c) "Manufacturer" and "retailer" include brewpubs
471 licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi
472 Code of 1972, unless otherwise clearly provided; and

473 (d) "Beer" means a malt beverage as defined in the
474 Federal Alcohol Administration Act, and any rules and regulations
475 adopted pursuant to such act, of an alcoholic content of not more
476 than ten percent (10%) by weight.

477 **SECTION 4.** Section 67-3-5, Mississippi Code of 1972, is
478 amended as follows:

479 67-3-5. It shall be lawful, subject to the provisions set
480 forth in this chapter, in this state to transport, store, sell,
481 distribute, possess, receive, and/or manufacture wine * * * of an
482 alcoholic content of not more than five percent (5%) by weight and
483 beer of an alcoholic content of not more than ten percent (10%) by
484 weight, and it is hereby declared that it is the legislative
485 intent that this chapter privileges the lawful sale and



486 manufacture, within this state, of such light wines and beer. In
487 determining if a wine product is "light wine," or contains an
488 alcoholic content of more than five percent (5%) by weight, or is
489 not an "alcoholic beverage" as defined in the Local Option
490 Alcoholic Beverage Control Law, Chapter 1 of Title 67, Mississippi
491 Code of 1972, the alcoholic content of such wine product shall be
492 subject to the same permitted tolerance as is allowed by the
493 labeling requirements for light wine provided for in Section
494 27-71-509.

495 **SECTION 5.** Section 67-3-7, Mississippi Code of 1972, is
496 amended as follows:

497 67-3-7. (1) If any county, at an election held for the
498 purpose under the election laws of the state, shall by a majority
499 vote of the duly qualified electors voting in the election
500 determine that the transportation, storage, sale, distribution,
501 receipt and/or manufacture of wine * * * of an alcoholic content
502 of not more than five percent (5%) by weight and beer of an
503 alcoholic content of not more than ten percent (10%) shall not be
504 permitted in such county, then the same shall not be permitted
505 therein except as authorized under Section 67-9-1 and as may be
506 otherwise authorized in this section. An election to determine
507 whether such transportation, storage, sale, distribution, receipt
508 and/or manufacture of such beverages shall be excluded from any
509 county in the state, shall on a petition of twenty percent (20%)
510 of the duly qualified electors of the county, be ordered by the
511 county's board of supervisors * * *, for such county only. No
512 election on the question shall be held in any one county more
513 often than once in five (5) years.

514 In counties which have elected, or may elect by a majority
515 vote of the duly qualified electors voting in the election, that
516 the transportation, storage, sale, distribution, receipt and/or
517 manufacture of wine * * * of an alcoholic content of not more than
518 five percent (5%) by weight or beer of an alcoholic content of not



519 more than ten percent (10%) by weight shall not be permitted in
520 the county, an election may be held in the same manner as the
521 election hereinabove provided on the question of whether or not
522 the transportation, storage, sale, distribution, receipt and/or
523 manufacture of said beverages shall be permitted in such county.
524 Such election shall be ordered by the board of supervisors of such
525 county on a petition of twenty percent (20%) of the duly qualified
526 electors of such county. No election on this question can be
527 ordered more often than once in five (5) years.

528 (2) Nothing in this section shall make it unlawful to
529 possess beer or wine, as defined herein, in any municipality which
530 has heretofore or which may hereafter vote in an election,
531 pursuant to Section 67-3-9, in which a majority of the qualified
532 electors vote in favor of permitting the sale and the receipt,
533 storage and transportation for the purpose of sale of beer or wine
534 as defined herein.

535 (3) Nothing in this section shall make it unlawful to:

536 (a) Possess or consume light wine or beer at a
537 qualified resort area as defined in Section 67-1-5;

538 (b) Sell, distribute and transport light wine or beer
539 to a qualified resort area as defined in Section 67-1-5;

540 (c) Sell light wine or beer at a qualified resort area
541 as defined in Section 67-1-5 if such light wine or beer is sold by
542 a person with a permit to engage in the business as a retailer of
543 light wine or beer.

544 **SECTION 6.** Section 67-3-9, Mississippi Code of 1972, is
545 amended as follows:

546 67-3-9. Any city in this state, having a population of not
547 less than two thousand five hundred (2,500) according to the
548 latest federal census, at an election held for the purpose, under
549 the election laws applicable to such city, may either prohibit or
550 permit, except as otherwise provided under Section 67-9-1, the
551 sale and the receipt, storage and transportation for the purpose



552 of sale of beer of an alcoholic content of not more than ten
553 percent (10%) by weight. An election to determine whether such
554 sale shall be permitted in cities wherein its sale is prohibited
555 by law shall be ordered by the city council or mayor and board of
556 aldermen or other governing body of such city for such city only,
557 upon the presentation of a petition for such city to such
558 governing board containing the names of twenty percent (20%) of
559 the duly qualified voters of such city asking for such election.
560 In like manner, an election to determine whether such sale shall
561 be prohibited in cities wherein its sale is permitted by law shall
562 be ordered by the city council or mayor and board of aldermen or
563 other governing board of such city for such city only, upon the
564 presentation of a petition to such governing board containing the
565 names of twenty percent (20%) of the duly qualified voters of such
566 city asking for such election. No election on either question
567 shall be held by any one (1) city more often than once in five (5)
568 years.

569 Thirty (30) days' notice shall be given to the qualified
570 electors of such city in the manner prescribed by law upon the
571 question of either permitting or prohibiting such sale, and the
572 notice shall contain a statement of the question to be voted on at
573 said election. The tickets to be used in said election shall have
574 the following words printed thereon: "For the legal sale of beer
575 of an alcoholic content of not more than ten percent (10%) by
576 weight"; and the words "Against the legal sale of beer of an
577 alcoholic content of not more than ten percent (10%) by weight,"
578 next below. In making up his ticket the voter shall make a cross
579 (X) opposite the words of his choice.

580 If in said election a majority of the qualified electors
581 voting in the election shall vote "For the legal sale of beer of
582 an alcoholic content of not more than ten percent (10%) by
583 weight," then the city council or mayor and board of aldermen or
584 other governing body shall pass the necessary order permitting the



585 legal sale of such beer in such city. If in said election a
586 majority of the qualified electors voting in the election shall
587 vote "Against the legal sale of beer of an alcoholic content of
588 not more than ten percent (10%) by weight," then the city council
589 or mayor and board of aldermen or other governing body shall pass
590 the necessary order prohibiting the sale of such beer in such
591 city.

592 All laws or parts of laws in conflict with this section are
593 hereby repealed to the extent of such conflict only, this section
594 being cumulative and supplementary.

595 **SECTION 7.** Section 67-3-13, Mississippi Code of 1972, is
596 amended as follows:

597 67-3-13. (1) Except as otherwise provided herein and as
598 authorized under this section and Section 67-9-1, in any county
599 which has at any time since February 26, 1934, elected, or which
600 may hereafter elect, to prohibit the transportation, storage,
601 sale, distribution, receipt and/or manufacture of wine and beer of
602 an alcoholic content of not more than four percent (4%) by weight
603 in such county, it is hereby declared to be unlawful to possess
604 such beverages therein. In any county which, after July 1, 1998,
605 elects to prohibit the transportation, storage, sale,
606 distribution, receipt and/or manufacture of wine and beer of an
607 alcoholic content of not more than five percent (5%) by weight in
608 such county, it is hereby declared to be unlawful to possess such
609 beer therein. In any county which, after July 1, 2010, elects to
610 prohibit the transportation, storage, sale, distribution, receipt
611 and/or manufacture of beer of an alcoholic content of not more
612 than ten percent (10%) by weight, it is hereby declared to be
613 unlawful to possess such beer therein. Any person found
614 possessing any beer or wine of any quantity whatsoever in such
615 county shall, on conviction, be imprisoned not more than ninety
616 (90) days or fined not more than Five Hundred Dollars (\$500.00),
617 or be both so fined and imprisoned.



618 (2) Notwithstanding the provisions of subsection (1) of this
619 section, in any county or municipality in which the
620 transportation, storage, sale, distribution, receipt and/or
621 manufacture of light wine and beer is prohibited, it shall not be
622 unlawful for a permitted wholesaler or distributor to possess
623 light wine and beer when such light wine and beer is held therein
624 solely for the purpose of storage and for distribution to other
625 counties and municipalities in which possession of such beverages
626 is lawful.

627 (3) Notwithstanding the provisions of subsections (1) and
628 (2) of this section, in any county in which transportation,
629 storage, sale, distribution, receipt and/or manufacture of light
630 wine and beer is prohibited, it shall not be unlawful:

631 (a) To receive, store, possess or consume light wine or
632 beer at a resort area as defined in Section 67-1-5;

633 (b) To distribute and transport light wine or beer to a
634 resort area as defined in Section 67-1-5.

635 **SECTION 8.** Section 67-3-17, Mississippi Code of 1972, is
636 amended as follows:

637 67-3-17. Any person desiring to engage in any business
638 taxable under Sections 27-71-303 through 27-71-317, Mississippi
639 Code of 1972, either as a retailer, or as a wholesaler or
640 distributor, or as a manufacturer, of light wines or beer, shall
641 file with the commissioner an application for a permit allowing
642 him to engage in such business. The application for a permit
643 shall be filed on a blank to be furnished by the commissioner for
644 that purpose, and shall contain a statement showing the name of
645 the business, and if a partnership, firm or association, the name
646 of each partner or member, and if a corporation the names of two
647 (2) principal officers, the post office address, and the nature of
648 business in which engaged. In case any business is conducted at
649 two (2) or more separate places, a separate permit for each place
650 of business shall be required.



651 The applicant, at the time of filing such application for a
652 permit or license to engage in such business, shall also file with
653 the commissioner an oath, duly subscribed and sworn to by him
654 before an officer authorized to administer oaths, that he will not
655 allow any alcoholic beverages as defined by Section 67-1-5, any
656 beer having an alcoholic content of more than ten percent (10%) by
657 weight, or any having an alcoholic content of more than five
658 percent (5%) by weight, to be kept, stored or secreted in or on
659 the premises described in such permit or license, and that the
660 applicant will not otherwise violate any law of this state, or
661 knowingly allow any other person to violate any such law, while in
662 or on such premises.

663 Each application or filing made under this section shall
664 include the social security number(s) of the applicant in
665 accordance with Section 93-11-64.

666 **SECTION 9.** Section 67-3-28, Mississippi Code of 1972, is
667 amended as follows:

668 67-3-28. (1) Any person desiring to engage in business as a
669 brewpub shall file with the commissioner, along with the
670 application required by Section 67-3-17, Mississippi Code of 1972,
671 a certificate issued by a licensed testing laboratory indicating
672 that such laboratory has tested a sample of the applicant's beer
673 or light wine, or both, and that the alcohol content of such
674 sample does not exceed ten percent (10%) by weight.

675 (2) Every brewpub shall be required to submit to random
676 testing by the commissioner to determine whether any beer or light
677 wine being manufactured, sold, kept, stored or secreted by the
678 license holder contains an alcohol content greater than ten
679 percent (10%) by weight. The commissioner shall establish and
680 administer testing standards and procedures to be used in such
681 random testing. The brewpub licensee shall be responsible for all
682 costs incurred by the commissioner in conducting random testing
683 under this section.



684 **SECTION 10.** Section 67-3-49, Mississippi Code of 1972, is
685 amended as follows:

686 67-3-49. It shall be unlawful for any brewer or manufacturer
687 or distributor or wholesale dealer of or in light wines and/or
688 beer to manufacture or knowingly bring upon his premises or keep
689 thereon any * * * wine of an alcoholic content of more than five
690 percent (5%) by weight, beer of an alcoholic content of not more
691 than ten percent (10%) by weight, or any distilled spirits of any
692 alcoholic content whatsoever. Any person that shall add to or mix
693 with any beer or light wine any alcoholic or other liquid, or any
694 alcohol cube or cubes, or any other ingredient or ingredients that
695 will increase or tend to increase the alcoholic content of such
696 liquor, or any person that shall knowingly offer for sale any
697 liquor so treated, shall be guilty of a misdemeanor and punished
698 as hereinafter provided in this chapter. The commissioner shall
699 take any action he considers necessary to ensure that light wine
700 and/or beer manufactured at a brewpub complies with the provisions
701 of this section.

702 **SECTION 11.** Section 67-3-53, Mississippi Code of 1972, is
703 amended as follows:

704 67-3-53. In addition to any act declared to be unlawful by
705 this chapter, or by Sections 27-71-301 through 27-71-347, and
706 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be
707 unlawful for the holder of a permit authorizing the sale of beer
708 or light wine at retail or for the employee of the holder of such
709 a permit:

710 (a) To sell or give to be consumed in or upon any
711 licensed premises any beer or light wine between the hours of
712 midnight and seven o'clock the following morning or during any
713 time the licensed premises may be required to be closed by
714 municipal ordinance or order of the board of supervisors; however,
715 in areas where the sale of alcoholic beverages is legal under the
716 provisions of the Local Option Alcoholic Beverage Control Law and



717 the hours for selling those alcoholic beverages have been extended
718 beyond midnight for on-premises permittees under Section 67-1-37,
719 the hours for selling beer or light wines are likewise extended in
720 areas where the sale of beer and light wines is legal in
721 accordance with the provisions of this chapter.

722 (b) To sell, give or furnish any beer or light wine to
723 any person visibly or noticeably intoxicated, or to any habitual
724 drunkard, or to any person under the age of twenty-one (21) years.

725 (c) To permit in the premises any lewd, immoral or
726 improper entertainment, conduct or practices.

727 (d) To permit loud, boisterous or disorderly conduct of
728 any kind upon the premises or to permit the use of loud musical
729 instruments if either or any of the same may disturb the peace and
730 quietude of the community in which the business is located.

731 (e) To permit persons of ill repute, known criminals,
732 prostitutes or minors to frequent the licensed premises, except
733 minors accompanied by parents or guardians, or under proper
734 supervision.

735 (f) To permit or suffer illegal gambling or the
736 operation of illegal games of chance upon the licensed premises.

737 (g) To receive, possess or sell on the licensed
738 premises any beverage of any kind or character containing more
739 than five percent (5%) of alcohol by weight, except any beer
740 containing not more than ten percent (10%) of alcohol by weight,
741 unless the licensee also possesses an on-premises permit under the
742 Local Option Alcoholic Beverage Control Law.

743 **SECTION 12.** Section 27-71-509, Mississippi Code of 1972, is
744 amended as follows:

745 27-71-509. It shall be unlawful for any brewer,
746 manufacturer, distributor or retailer of light wines and beer, or
747 either of them, to whom a permit has been issued under the
748 provisions of Sections 67-3-15 and 67-3-23, Mississippi Code of
749 1972, to write or print on any label or container of either of the



750 above named commodities any matter relating to the alcoholic
751 content of such beverage or beverages, except a statement, to the
752 effect that the contents of the vessel or container in which light
753 wine shall be sold does not contain alcohol in excess of five
754 percent (5%) of the contents thereof, by weight, and that the
755 contents of the vessel or container in which beer shall be sold
756 does not contain alcohol in excess of ten percent (10%) of the
757 contents thereof, by weight. It shall be unlawful for any such
758 brewer, wholesaler, distributor or retailer to sell any such
759 commodity with any statement in conflict with the provisions of
760 this section, with reference to the alcoholic content of such
761 beverage or beverages, except that a statement of alcoholic
762 content may be expressed on any light wine or beer label in terms
763 of volume or weight, at the manufacturer's option; and such
764 statement, if by volume, shall be subject to the same permitted
765 tolerance allowed for wine containing fourteen percent (14%)
766 alcohol by volume or less by Section 4.36(b)(1) of the Federal
767 Labeling Requirements for Wine, 27 CFR Part 4, subpart D, and
768 Section 7.71(c) 27 CFR Part 7, subpart G, and, if by weight, shall
769 be subject to an equivalent permitted tolerance, determined in
770 terms of alcohol by weight.

771 **SECTION 13.** This act shall take effect and be in force from
772 and after July 1, 2010.

