

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2368
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-3-83, MISSISSIPPI CODE OF 1972, TO
2 EXPAND THE TYPES OF DOCUMENTS THAT THE COMMISSIONER OF REVENUE MAY
3 SPECIFY THE METHOD BY WHICH SUCH DOCUMENTS MAY BE FILED WITH THE
4 DEPARTMENT OF REVENUE; TO PROVIDE THAT BY MANUALLY SIGNING OR
5 AFFIXING AN ELECTRONIC SIGNATURE TO A DOCUMENT FILED WITH THE
6 DEPARTMENT OF REVENUE, THE PERSON SIGNING THE DOCUMENT OR AFFIXING
7 THE ELECTRONIC SIGNATURE TO THE DOCUMENT IS SWEARING UNDER OATH
8 THAT ALL INFORMATION CONTAINED IN THE DOCUMENT IS TRUE AND CORRECT
9 AND THAT HE OR SHE HAS THE SAME AUTHORITY TO SIGN THE DOCUMENT OR
10 AFFIX THE ELECTRONIC SIGNATURE TO THE DOCUMENT AS THE PERSON
11 FILING THE DOCUMENT OR AS THE DULY AUTHORIZED REPRESENTATIVE OF
12 THE PERSON OR ENTITY FOR WHOM THE DOCUMENT IS BEING FILED; TO
13 PROVIDE A CRIMINAL PENALTY FOR KNOWINGLY SUBMITTING FALSE
14 INFORMATION IN A DOCUMENT OR SIGNING OR AFFIXING AN ELECTRONIC
15 SIGNATURE TO A DOCUMENT WITHOUT THE AUTHORITY TO DO SO; TO
16 AUTHORIZE THE DEPARTMENT TO RELEASE CONFIDENTIAL INFORMATION AND
17 DOCUMENTS TO A PERSON DESIGNATED TO RECEIVE SUCH INFORMATION OR
18 DOCUMENTS IN A PROPERLY EXECUTED POWER OF ATTORNEY OR OTHER
19 DOCUMENT; TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
20 PROVIDE THAT APPLICANTS FOR TEMPORARY RETAILER'S PERMITS ISSUED
21 UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW MUST SUBMIT
22 A STATEMENT UNDER PENALTY OF PERJURY, RATHER THAN AN AFFIDAVIT,
23 THAT HE MEETS CERTAIN REQUIREMENTS; TO AMEND SECTION 67-3-17,
24 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER OF
25 REVENUE SHALL PRESCRIBE THE FORM OF THE APPLICATION FOR A PERMIT
26 UNDER THE LIGHT WINE AND BEER LAW AND THAT SUCH APPLICATION MUST
27 BE SIGNED UNDER PENALTY OF PERJURY; TO AMEND SECTION 27-69-21,
28 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN ORDER TO OBTAIN A
29 CHARITABLE EXEMPTION UNDER THE TOBACCO TAX LAW, PROOF THAT TAXABLE
30 TOBACCO DONATED TO CERTAIN CHARITABLE ORGANIZATIONS WAS NOT
31 PURCHASED FOR RESALE MUST BE ACCOMPANIED BY AN EXEMPTION CLAIM
32 FORM AND SIGNED UNDER PENALTY OF PERJURY RATHER THAN AN AFFIDAVIT;
33 TO AMEND SECTION 27-69-49, MISSISSIPPI CODE OF 1972, TO PROVIDE
34 THAT IN ORDER TO OBTAIN A REFUND UNDER THE TOBACCO TAX LAW FOR
35 LOSS OF PRODUCT, THE PROOF OF LOSS OF TOBACCO FORM MUST BE SIGNED
36 UNDER PENALTY OF PERJURY RATHER THAN SUPPORTED BY AN AFFIDAVIT; TO
37 AMEND SECTION 27-7-345, MISSISSIPPI CODE OF 1972, TO REMOVE THE
38 PENALTY FOR A SECOND OR SUBSEQUENT OFFENSE FOR FAILURE TO FILE A
39 WITHHOLDING TAX RETURN WITHIN THE TIME PRESCRIBED OR FOR FAILURE
40 TO PAY THE TAX WHEN SUCH FAILURE WAS NOT THE RESULT OF ANY
41 FRAUDULENT INTENT; TO AMEND SECTION 27-65-39, MISSISSIPPI CODE OF
42 1972, TO REMOVE THE DAMAGES FOR A SECOND OR SUBSEQUENT OFFENSE FOR
43 NEGLIGENCE OR FAILURE TO COMPLY WITH THE PROVISIONS OF THE SALES
44 TAX LAW IF THERE WAS NO INTENT TO DEFRAUD; TO AMEND SECTION
45 27-69-9, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER
46 OF REVENUE TO NOTIFY MANUFACTURERS, WHOLESALERS AND DISTRIBUTORS



47 OF THE REVOCATION OF A PERMIT UNDER THE TOBACCO TAX LAW EITHER
48 MANUALLY OR ELECTRONICALLY AS SPECIFIED BY RULE OR REGULATION; TO
49 AMEND SECTION 63-17-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
50 ALL ADMINISTRATIVE PROVISIONS OF THE MISSISSIPPI SALES TAX LAW
51 SHALL APPLY TO THE POINT-OF-SALE FEE LEVIED ON THE RETAIL SALES OF
52 ALL-TERRAIN VEHICLES AND MOTORCYCLES, AND TO THE FEE LEVIED ON
53 RESIDENTS OF THIS STATE WHO PURCHASE A NEW AND NOT PREVIOUSLY
54 REGISTERED MOTORCYCLE OR ALL-TERRAIN VEHICLE IN ANOTHER STATE AND
55 BRING THE MOTORCYCLE INTO THIS STATE; TO EXCLUDE VEHICLES DESIGNED
56 FOR USE AS GOLF CARTS FROM THE TERM "ALL-TERRAIN" VEHICLE; AND FOR
57 RELATED PURPOSES.

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

59 **SECTION 1.** Section 27-3-83, Mississippi Code of 1972, is
60 amended as follows:

61 27-3-83. (1) The Commissioner of Revenue may specify by
62 rule or regulation the manner and method, either manually or
63 electronically, by which tax returns, supporting schedules,
64 information returns, applications for permits, licenses or titles,
65 powers of attorney, review board appeal petitions, and other * * *
66 documents and information may be filed with the Department of
67 Revenue. The commissioner may require certain taxpayers to submit
68 any or all tax returns, schedules or other documents and
69 information electronically; however, the commissioner shall not
70 require the submission of returns, schedules or other documents
71 and information electronically by taxpayers that do not have the
72 capability to make the submissions electronically.

73 (2) The Commissioner of Revenue may specify by rule or
74 regulation alternative forms of electronic signature that may be
75 allowed or required on tax returns and other documents. Such an
76 electronic signature shall have the same legal effect as that of a
77 manual signature.

78 (3) An electronic or paper reproduction of a form or
79 document, or the reproduction of the information placed on
80 computer storage devices by electronic means, shall be deemed to
81 be an original of the form or document for all purposes and is
82 admissible in evidence without further foundation in all courts
83 and administrative hearings if the following certification by the



84 Commissioner of Revenue, along with his official seal, is affixed
85 to the reproduction:

86 The Commissioner of Revenue, official custodian of all
87 records of the Department of Revenue, hereby certifies this
88 document is a true reproduction of the information contained in
89 the official records of this agency.

90 (4) If a person fails to comply with the rules and
91 regulations promulgated by the commissioner under the provisions
92 of subsection (1) or (2) of this section; fails to comply with any
93 electronic filing mandate; fails to complete any return,
94 supporting schedule, information return or other * * * document or
95 fails to remit any required schedule or additional information,
96 the commissioner may impose a penalty of Twenty-five Dollars
97 (\$25.00) for the first instance of noncompliance and Five Hundred
98 Dollars (\$500.00) for each additional instance of noncompliance.
99 Any penalty imposed under this section shall be collected in the
100 same manner as that set forth for the collection of penalties
101 under the Mississippi Sales Tax Law, being Section 27-65-1 et seq.

102 (5) By manually signing or affixing an electronic signature
103 to a document that may be filed with the department, the person
104 signing the document or affixing the electronic signature to the
105 document is swearing under oath that all information contained in
106 the document is true and correct and that he or she has the same
107 authority to sign the document or affix the electronic signature
108 to the document as the person filing the document or as the duly
109 authorized representative of the person or entity for whom the
110 document is being filed. Should the person signing or affixing an
111 electronic signature to a document filed with the Department of
112 Revenue knowingly submit information in the document that is false
113 or sign or affix an electronic signature to the document on the
114 behalf of another person or entity without the authority to do so,
115 he or she shall be guilty of perjury and, upon conviction, shall



116 be punished by imprisonment in the State Penitentiary for a term
117 not exceeding ten (10) years.

118 (6) Notwithstanding the confidentiality of the information
119 and documents in its possession, the Department of Revenue may
120 release any information or a copy of any document in its
121 possession and custody to any person designated to receive the
122 information or document in a power of attorney or other document
123 authorizing the release of the information or document which has
124 been properly executed by the person or the duly authorized
125 representative of the entity to whom the information or document
126 pertains and where the authorization has not expired, been
127 revoked, cancelled or otherwise rendered ineffective by death or
128 other circumstances. The Department of Revenue may require the
129 prepayment of the cost of the production of such information or
130 records. The Department of Revenue retains the right to deny the
131 release of information and documents for good cause, including,
132 but not limited to, interference with its operation or with an
133 ongoing tax, criminal, permit or regulatory investigation or
134 prosecution, and the possible violation of any federal law, state
135 law or exchange agreement with the Internal Revenue Service, other
136 federal agency, another state agency or the revenue department of
137 another state.

138 **SECTION 2.** Section 67-1-51, Mississippi Code of 1972, is
139 amended as follows:

140 67-1-51. (1) Permits which may be issued by the department
141 shall be as follows:

142 (a) **Manufacturer's permit.** A manufacturer's permit
143 shall permit the manufacture, importation in bulk, bottling and
144 storage of alcoholic liquor and its distribution and sale to
145 manufacturers holding permits under this chapter in this state and
146 to persons outside the state who are authorized by law to purchase
147 the same, and to sell exclusively to the department.

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



149 Class 1. Distiller's and/or rectifier's permit, which shall
150 authorize the holder thereof to operate a distillery for the
151 production of distilled spirits by distillation or redistillation
152 and/or to operate a rectifying plant for the purifying, refining,
153 mixing, blending, flavoring or reducing in proof of distilled
154 spirits and alcohol.

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

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

161 (b) **Package retailer's permit.** Except as otherwise
162 provided in this paragraph, a package retailer's permit shall
163 authorize the holder thereof to operate a store exclusively for
164 the sale at retail in original sealed and unopened packages of
165 alcoholic beverages, including native wines, not to be consumed on
166 the premises where sold. Alcoholic beverages shall not be sold by
167 any retailer in any package or container containing less than
168 fifty (50) milliliters by liquid measure. In addition to the sale
169 at retail of packages of alcoholic beverages, the holder of a
170 package retailer's permit is authorized to sell at retail
171 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
172 other beverages commonly used to mix with alcoholic beverages.
173 Nonalcoholic beverages sold by the holder of a package retailer's
174 permit shall not be consumed on the premises where sold.

175 (c) **On-premises retailer's permit.** An on-premises
176 retailer's permit shall authorize the sale of alcoholic beverages,
177 including native wines, for consumption on the licensed premises
178 only; however, a patron of the permit holder may remove one (1)
179 bottle of wine from the licensed premises if: (i) the patron
180 consumed a portion of the bottle of wine in the course of
181 consuming a meal purchased on the licensed premises; (ii) the



182 permit holder securely reseals the bottle; (iii) the bottle is
183 placed in a bag that is secured in a manner so that it will be
184 visibly apparent if the bag is opened; and (iv) a dated receipt
185 for the wine and the meal is available. Such a permit shall issue
186 only to qualified hotels, restaurants and clubs, and to common
187 carriers with adequate facilities for serving passengers. In
188 resort areas, whether inside or outside of a municipality, the
189 department, in its discretion, may issue on-premises retailer's
190 permits to such establishments as it deems proper. An on-premises
191 retailer's permit when issued to a common carrier shall authorize
192 the sale and serving of alcoholic beverages aboard any licensed
193 vehicle while moving through any county of the state; however, the
194 sale of such alcoholic beverages shall not be permitted while such
195 vehicle is stopped in a county that has not legalized such sales.

196 (d) **Solicitor's permit.** A solicitor's permit shall
197 authorize the holder thereof to act as salesman for a manufacturer
198 or wholesaler holding a proper permit, to solicit on behalf of his
199 employer orders for alcoholic beverages, and to otherwise promote
200 his employer's products in a legitimate manner. Such a permit
201 shall authorize the representation of and employment by one (1)
202 principal only. However, the permittee may also, in the
203 discretion of the department, be issued additional permits to
204 represent other principals. No such permittee shall buy or sell
205 alcoholic beverages for his own account, and no such beverage
206 shall be brought into this state in pursuance of the exercise of
207 such permit otherwise than through a permit issued to a wholesaler
208 or manufacturer in the state.

209 (e) **Native wine retailer's permit.** A native wine
210 retailer's permit shall be issued only to a holder of a Class 3
211 manufacturer's permit, and shall authorize the holder thereof to
212 make retail sales of native wines to consumers for on-premises
213 consumption or to consumers in originally sealed and unopened



214 containers at an establishment located on the premises of or in
215 the immediate vicinity of a native winery.

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

220 Temporary retailer's permits shall be of the following
221 classes:

222 Class 1. A temporary one-day permit may be issued to bona
223 fide nonprofit civic or charitable organizations authorizing the
224 sale of alcoholic beverages, including native wine, for
225 consumption on the premises described in the temporary permit
226 only. Class 1 permits may be issued only to applicants
227 demonstrating to the department, by a statement signed under
228 penalty of perjury submitted ten (10) days prior to the proposed
229 date or such other time as the department may determine, that they
230 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
231 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
232 Class 1 permittees shall obtain all alcoholic beverages from
233 package retailers located in the county in which the temporary
234 permit is issued. Alcoholic beverages remaining in stock upon
235 expiration of the temporary permit may be returned by the
236 permittee to the package retailer for a refund of the purchase
237 price upon consent of the package retailer or may be kept by the
238 permittee exclusively for personal use and consumption, subject to
239 all laws pertaining to the illegal sale and possession of
240 alcoholic beverages. The department, following review of the
241 statement provided by the applicant and the requirements of the
242 applicable statutes and regulations, may issue the permit.

243 Class 2. A temporary permit, not to exceed seventy (70)
244 days, may be issued to prospective permittees seeking to transfer
245 a permit authorized in paragraph (c) of this subsection. A Class
246 2 permit may be issued only to applicants demonstrating to the



247 department, by a statement signed under the penalty of perjury,
248 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
249 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
250 67-1-59. The department, following a preliminary review of the
251 statement provided by the applicant and the requirements of the
252 applicable statutes and regulations, may issue the permit.

253 Class 2 temporary permittees must purchase their alcoholic
254 beverages directly from the department or, with approval of the
255 department, purchase the remaining stock of the previous
256 permittee. If the proposed applicant of a Class 1 or Class 2
257 temporary permit falsifies information contained in the
258 application or statement, the applicant shall never again be
259 eligible for a retail alcohol beverage permit and shall be subject
260 to prosecution for perjury.

261 Class 3. A temporary one-day permit may be issued to a
262 retail establishment authorizing the complimentary distribution of
263 wine, including native wine, to patrons of the retail
264 establishment at an open house or promotional event, for
265 consumption only on the premises described in the temporary
266 permit. A Class 3 permit may be issued only to an applicant
267 demonstrating to the department, by a statement signed under
268 penalty of perjury submitted ten (10) days before the proposed
269 date or such other time as the department may determine, that it
270 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
271 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
272 A Class 3 permit holder shall obtain all alcoholic beverages from
273 the holder(s) of a package retailer's permit located in the county
274 in which the temporary permit is issued. Wine remaining in stock
275 upon expiration of the temporary permit may be returned by the
276 Class 3 temporary permit holder to the package retailer for a
277 refund of the purchase price, with consent of the package
278 retailer, or may be kept by the Class 3 temporary permit holder
279 exclusively for personal use and consumption, subject to all laws



280 pertaining to the illegal sale and possession of alcoholic
281 beverages. The department, following review of the statement
282 provided by the applicant and the requirements of the applicable
283 statutes and regulations, may issue the permit. No retailer may
284 receive more than twelve (12) Class 3 temporary permits in a
285 calendar year. A Class 3 temporary permit shall not be issued to
286 a retail establishment that either holds a merchant permit issued
287 under paragraph (1) of this subsection, or holds a permit issued
288 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
289 the holder to engage in the business of a retailer of light wine
290 or beer.

291 (g) **Caterer's permit.** A caterer's permit shall permit
292 the purchase of alcoholic beverages by a person engaging in
293 business as a caterer and the resale of alcoholic beverages by
294 such person in conjunction with such catering business. No person
295 shall qualify as a caterer unless forty percent (40%) or more of
296 the revenue derived from such catering business shall be from the
297 serving of prepared food and not from the sale of alcoholic
298 beverages and unless such person has obtained a permit for such
299 business from the Department of Health. A caterer's permit shall
300 not authorize the sale of alcoholic beverages on the premises of
301 the person engaging in business as a caterer; however, the holder
302 of an on-premises retailer's permit may hold a caterer's permit.
303 When the holder of an on-premises retailer's permit or an
304 affiliated entity of the holder also holds a caterer's permit, the
305 caterer's permit shall not authorize the service of alcoholic
306 beverages on a consistent, recurring basis at a separate, fixed
307 location owned or operated by the caterer, on-premises retailer or
308 affiliated entity and an on-premises retailer's permit shall be
309 required for the separate location. All sales of alcoholic
310 beverages by holders of a caterer's permit shall be made at the
311 location being catered by the caterer, and such sales may be made
312 only for consumption at the catered location. The location being



313 catered may be anywhere within a county or judicial district that
314 has voted to come out from under the dry laws or in which the
315 sale, distribution and possession of alcoholic beverages is
316 otherwise authorized by law. Such sales shall be made pursuant to
317 any other conditions and restrictions which apply to sales made by
318 on-premises retail permittees. The holder of a caterer's permit
319 or his employees shall remain at the catered location as long as
320 alcoholic beverages are being sold pursuant to the permit issued
321 under this paragraph (g), and the permittee shall have at the
322 location the identification card issued by the Alcoholic Beverage
323 Control Division of the department. No unsold alcoholic beverages
324 may be left at the catered location by the permittee upon the
325 conclusion of his business at that location. Appropriate law
326 enforcement officers and Alcoholic Beverage Control Division
327 personnel may enter a catered location on private property in
328 order to enforce laws governing the sale or serving of alcoholic
329 beverages.

330 (h) **Research permit.** A research permit shall authorize
331 the holder thereof to operate a research facility for the
332 professional research of alcoholic beverages. Such permit shall
333 authorize the holder of the permit to import and purchase limited
334 amounts of alcoholic beverages from the department or from
335 importers, wineries and distillers of alcoholic beverages for
336 professional research.

337 (i) **Alcohol processing permit.** An alcohol processing
338 permit shall authorize the holder thereof to purchase, transport
339 and possess alcoholic beverages for the exclusive use in cooking,
340 processing or manufacturing products which contain alcoholic
341 beverages as an integral ingredient. An alcohol processing permit
342 shall not authorize the sale of alcoholic beverages on the
343 premises of the person engaging in the business of cooking,
344 processing or manufacturing products which contain alcoholic



345 beverages. The amounts of alcoholic beverages allowed under an
346 alcohol processing permit shall be set by the department.

347 (j) **Hospitality cart permit.** A hospitality cart permit
348 shall authorize the sale of alcoholic beverages from a mobile cart
349 on a golf course that is the holder of an on-premises retailer's
350 permit. The alcoholic beverages sold from the cart must be
351 consumed within the boundaries of the golf course.

352 (k) **Special service permit.** A special service permit
353 shall authorize the holder to sell commercially sealed alcoholic
354 beverages to the operator of a commercial or private aircraft for
355 en route consumption only by passengers. A special service permit
356 shall be issued only to a fixed-base operator who contracts with
357 an airport facility to provide fueling and other associated
358 services to commercial and private aircraft.

359 (l) **Merchant permit.** A merchant permit shall be issued
360 only to the owner of a spa facility, an art studio or gallery, or
361 a cooking school, and shall authorize the holder to serve
362 complimentary by the glass wine only, including native wine, at
363 the holder's spa facility, art studio or gallery, or cooking
364 school. A merchant permit holder shall obtain all wine from the
365 holder of a package retailer's permit.

366 (m) **Temporary wine charitable auction permit.** A
367 temporary permit, not to exceed five (5) days, may be issued to a
368 qualifying charitable nonprofit organization that is exempt from
369 taxation under Section 501(c)(3) or (4) of the Internal Revenue
370 Code of 1986. The permit shall authorize the holder to sell wine
371 for the limited purpose of raising funds for the organization
372 during a live or silent auction that is conducted by the
373 organization and that meets the following requirements: (i) the
374 auction is conducted in an area of the state where the sale of
375 wine is authorized; (ii) if the auction is conducted on the
376 premises of an on-premises retailer's permit holder, then the wine
377 to be auctioned must be stored separately from the wine sold,



378 stored or served on the premises, must be removed from the
379 premises immediately following the auction, and may not be
380 consumed on the premises; (iii) the permit holder may not conduct
381 more than two (2) auctions during a calendar year; (iv) the permit
382 holder may not pay a commission or promotional fee to any person
383 to arrange or conduct the auction.

384 (2) Except as otherwise provided in subsection (4) of this
385 section, retail permittees may hold more than one (1) retail
386 permit, at the discretion of the department.

387 (3) Except as otherwise provided in this subsection, no
388 authority shall be granted to any person to manufacture, sell or
389 store for sale any intoxicating liquor as specified in this
390 chapter within four hundred (400) feet of any church, school,
391 kindergarten or funeral home. However, within an area zoned
392 commercial or business, such minimum distance shall be not less
393 than one hundred (100) feet.

394 A church or funeral home may waive the distance restrictions
395 imposed in this subsection in favor of allowing issuance by the
396 department of a permit, pursuant to subsection (1) of this
397 section, to authorize activity relating to the manufacturing, sale
398 or storage of alcoholic beverages which would otherwise be
399 prohibited under the minimum distance criterion. Such waiver
400 shall be in written form from the owner, the governing body, or
401 the appropriate officer of the church or funeral home having the
402 authority to execute such a waiver, and the waiver shall be filed
403 with and verified by the department before becoming effective.

404 The distance restrictions imposed in this subsection shall
405 not apply to the sale or storage of alcoholic beverages at a bed
406 and breakfast inn listed in the National Register of Historic
407 Places or to the sale or storage of alcoholic beverages in a
408 historic district that is listed in the National Register of
409 Historic Places, is a qualified resort area and is located in a



410 municipality having a population greater than one hundred thousand
411 (100,000) according to the latest federal decennial census.

412 (4) No person, either individually or as a member of a firm,
413 partnership, limited liability company or association, or as a
414 stockholder, officer or director in a corporation, shall own or
415 control any interest in more than one (1) package retailer's
416 permit, nor shall such person's spouse, if living in the same
417 household of such person, any relative of such person, if living
418 in the same household of such person, or any other person living
419 in the same household with such person own any interest in any
420 other package retailer's permit.

421 **SECTION 3.** Section 67-3-17, Mississippi Code of 1972, is
422 amended as follows:

423 67-3-17. (1) Any person desiring to engage in any business
424 taxable under Sections 27-71-303 through 27-71-317, Mississippi
425 Code of 1972, either as a retailer, or as a wholesaler or
426 distributor, or as a manufacturer, of light wines or beer, shall
427 file with the commissioner an application for a permit allowing
428 him to engage in such business. The application for a permit
429 shall * * * contain a statement showing the name of the business,
430 and if a partnership, firm, association or limited liability
431 company, the name of each partner or member, and if a corporation
432 the names of two (2) principal officers, the post office address,
433 and the nature of business in which engaged. In case any business
434 is conducted at two (2) or more separate places, a separate permit
435 for each place of business shall be required. The commissioner
436 shall prescribe the form of the application and designate who is
437 required to sign the application. The application shall be signed
438 under penalty of perjury.

439 (2) The application shall include a statement that the
440 applicant * * * will not allow any intoxicating liquor as defined
441 by this chapter, including beer, wine and distilled spirits, or
442 alcoholic, malt, or vinous liquors including beer and wine, having



443 an alcoholic content of more than five percent (5%) by weight, to
444 be kept, stored or secreted in or on the premises described in
445 such permit or license, and that the applicant will not otherwise
446 violate any law of this state, or knowingly allow any other person
447 to violate any such law, while in or on such premises.

448 (3) Each application or filing made under this section shall
449 include the social security number(s) of the applicant in
450 accordance with Section 93-11-64, Mississippi Code of 1972.

451 **SECTION 4.** Section 27-69-21, Mississippi Code of 1972, is
452 amended as follows:

453 27-69-21. (1) The provisions of this chapter shall not
454 apply to any tobacco donated to any charitable organization for
455 the use of inmates of any institution supported, in whole or in
456 part, by donations from the public, nor shall its provisions apply
457 to tobacco purchased by the state or federal government for use of
458 inmates of any state or federal institution. This exemption from
459 the payment of the tax can only be allowed by the commissioner on
460 sales supported by proof that such taxable tobacco was not
461 purchased for resale, but donated to the inmates of the
462 institution claiming such exemption. This proof must be
463 accompanied by an exemption claim form as prescribed by the
464 commissioner and signed under penalty of perjury by an official of
465 the institution requesting the exemption.

466 (2) It is further provided that no tax shall apply on sales
467 of tobacco by a wholesaler or distributor to a retailer for resale
468 on the Mississippi and Tennessee Rivers at midstream or in the
469 intercoastal waterway in the Mississippi Sound to crew members for
470 use or consumption on boats or barges transporting property in
471 interstate commerce.

472 **SECTION 5.** Section 27-69-49, Mississippi Code of 1972, is
473 amended as follows:

474 27-69-49. (1) The commissioner may promulgate rules and
475 regulations providing for refunds to dealers of the face value of



476 stamps affixed to any cigarettes which have become unfit for use
477 and consumption, unsalable, or for any other legitimate loss which
478 may occur, upon proof of such loss. Refund is to be made by
479 issuing new stamps of an aggregate value of the tax paid on the
480 goods adjudged to be unfit for use, consumption, unsalable, or any
481 other loss suffered.

482 (2) * * * The proof of loss required to obtain a refund of
483 the amount so authorized in subsection (1) of this section, shall
484 be in a form prescribed by the commissioner and signed by the
485 applicant under penalty of perjury, his agent or representative,
486 or other person familiar with the facts relied upon, setting out
487 in detail the facts and circumstances under which the loss
488 occurred.

489 * * *

490 (3) The commissioner shall keep a permanent record of all
491 such refunds made by him, in his office, and shall receive credit
492 for such refunds.

493 (4) No cigarettes which have been adjudged unfit for use and
494 consumption, or unsalable, shall again be offered for sale in this
495 state, and any person selling or offering to sell, or to give
496 away, any such cigarettes shall be guilty of a misdemeanor.

497 **SECTION 6.** Section 27-7-345, Mississippi Code of 1972, is
498 amended as follows:

499 27-7-345. Any taxpayer who either fails to file a required
500 return within the time prescribed, or who fails to remit the tax
501 or remits less than the amount due under the return, shall be
502 liable for the following penalties:

503 (a) If the failure to file a return within the time
504 prescribed, or the failure to pay the tax or any part thereof, was
505 not the result of any fraudulent intent, the taxpayer shall be
506 liable for a penalty in the amount of ten percent (10%) * * * of
507 the total amount of deficiency or delinquency in the tax, plus
508 interest on the amount of tax due at the rate of one percent (1%)



509 per month on the amount not paid, from the date such tax was due
510 until paid, and such amount shall be added to the liability of the
511 taxpayer unless such failure was due to reasonable cause.

512 (b) If the failure to file the return or to remit the
513 tax or any part thereof was the result of a fraudulent intent to
514 evade the payment to the commissioner, the taxpayer, in addition
515 to the criminal penalty provided in Section 27-7-347, shall be
516 liable for a penalty of fifty percent (50%) of the tax due, plus
517 interest on the amount of tax due at the rate of one percent (1%)
518 per month on the amount not paid.

519 (c) If the failure to file an information return or to
520 furnish a required statement within the time prescribed was not
521 the result of any fraudulent intent, the taxpayer shall be liable
522 for a penalty of Five Dollars (\$5.00) per statement, with a
523 minimum of Two Hundred Fifty Dollars (\$250.00) up to a maximum of
524 Ten Thousand Dollars (\$10,000.00) per reporting account.

525 (d) If the failure to file an information return or to
526 furnish a required statement was the result of intentional
527 disregard of filing requirements, the taxpayer shall be liable for
528 a penalty of Twenty-five Dollars (\$25.00) per statement, with a
529 minimum of Two Hundred Fifty Dollars (\$250.00) up to a maximum of
530 Fifty Thousand Dollars (\$50,000.00) per reporting account.

531 **SECTION 7.** Section 27-65-39, Mississippi Code of 1972, is
532 amended as follows:

533 27-65-39. If any part of the deficient or delinquent tax is
534 due to negligence or failure to comply with the provisions of this
535 chapter or authorized rules and regulations promulgated under the
536 provisions of this chapter without intent to defraud, there may be
537 added as damages ten percent (10%) * * * of the total amount of
538 deficiency or delinquency in the tax, or interest at the rate of
539 one percent (1%) per month, or both, from the date such tax was
540 due until paid, and the tax, damages and interest shall become
541 payable upon notice and demand by the commissioner.



542 If any part of the deficient or delinquent tax is due to
543 intentional disregard of the provisions of this chapter or
544 authorized rules and regulations promulgated under the provisions
545 of this chapter, or to fraud with intent to evade the law, then
546 there shall be added as damages fifty percent (50%) of the total
547 amount of the deficiency or delinquency of the tax, and in such
548 case the whole amount of tax unpaid, including the charges so
549 added, shall become due and payable upon notice and demand by the
550 commissioner, and interest of one percent (1%) per month of the
551 tax shall be added from the date such tax was due until paid.

552 * * *

553 **SECTION 8.** Section 27-69-9, Mississippi Code of 1972, is
554 amended as follows:

555 27-69-9. In addition to the penalties imposed in this
556 chapter, after the second offense for any violation, the
557 commissioner may revoke any permit which may have been issued to
558 any person, or persons, violating any provisions of this chapter,
559 or any rules or regulations promulgated by the commissioner under
560 authority of this chapter.

561 The commissioner, in the event a permit is revoked, is
562 required to notify * * * all manufacturers, wholesalers and
563 distributors having a permit required by this chapter, that the
564 permit has been revoked, and such manufacturer, wholesaler and
565 distributor is henceforth prohibited from selling taxable tobacco
566 to such dealer or retailer. The commissioner may notify
567 manufacturers, wholesalers and distributors as required by this
568 paragraph either manually or electronically and shall specify by
569 rule or regulation the method by which the notification shall be
570 made.

571 **SECTION 9.** Section 63-17-171, Mississippi Code of 1972, is
572 amended as follows:

573 63-17-171. (1) (a) There is levied a point-of-sale fee of
574 Fifty Dollars (\$50.00) on the retail sales of all-terrain vehicles



575 and motorcycles as defined in Section 63-21-5. The seller of an
576 all-terrain vehicle or a motorcycle shall collect the fee from the
577 purchaser at the time of sale and remit the fee to the Department
578 of Revenue, which shall deposit the proceeds of the fees into the
579 Mississippi Trauma Care Systems Fund created in Section 41-59-75.

580 (b) The seller of an all-terrain vehicle or a
581 motorcycle shall provide a written statement to the purchaser,
582 which may be printed on the sales receipt, that reads as follows:
583 "\$50.00 of the amount that you paid for this vehicle will be used
584 to fund the Mississippi Trauma Care System."

585 (2) (a) There is levied a fee of Fifty Dollars (\$50.00) on
586 a resident of this state who purchases a new and not previously
587 registered motorcycle in another state and brings the motorcycle
588 into this state. The person shall pay the fee to the tax
589 collector at the time of registering the motorcycle and applying
590 for a license tag. The tax collector shall remit the fee to the
591 Department of Revenue, which shall deposit the proceeds of the fee
592 into the Mississippi Trauma Care Systems Fund created in Section
593 41-59-75.

594 (b) There is levied a fee of Fifty Dollars (\$50.00) on
595 a resident of this state who purchases a new all-terrain vehicle
596 in another state and brings the vehicle into this state. The
597 person shall pay the fee to the Department of Revenue, which shall
598 deposit the proceeds of the fee into the Mississippi Trauma Care
599 Systems Fund created in Section 41-59-75.

600 (3) As used in this section, the term "all-terrain vehicle"
601 shall not include vehicles designed for use as golf carts.

602 (4) All administrative provisions of the Mississippi Sales
603 Tax Law, including those which fix damages, penalties and interest
604 for nonpayment of taxes and for noncompliance with the provisions
605 of such law, and all other requirements and duties imposed upon
606 taxpayers, shall apply to all persons liable for the fees imposed
607 by this section, and the Commissioner of Revenue shall exercise



608 all the power and authority and perform all the duties with
609 respect to this section as are provided in the Sales Tax Law
610 except where there is a conflict, then the provisions of this
611 section prevail.

612 **SECTION 10.** Sections 8 and 9 of this act shall take effect
613 and be in force from and after its passage, and the remaining
614 sections of this act shall take effect and be in force from and
615 after July 1, 2012.

