

By: Representative Powell

To: Ways and Means

HOUSE BILL NO. 845
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "QUALIFIED RESORT AREA" UNDER
3 THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW; AND FOR RELATED
4 PURPOSES.

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

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

8 67-1-5. For the purposes of this chapter and unless
9 otherwise required by the context:

10 (a) "Alcoholic beverage" means any alcoholic liquid,
11 including wines of more than five percent (5%) of alcohol by
12 weight, capable of being consumed as a beverage by a human being,
13 but shall not include light wine and beer, as defined in Section
14 67-3-3, Mississippi Code of 1972, but shall include native wines.
15 The words "alcoholic beverage" shall not include ethyl alcohol
16 manufactured or distilled solely for fuel purposes or beer of an
17 alcoholic content of more than eight percent (8%) by weight if the
18 beer is legally manufactured in this state for sale in another
19 state.



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

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

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

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

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

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

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



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

52 (j) "Division" means the Alcoholic Beverage Control
53 Division of the Department of Revenue.

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 department, 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:

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

87 (ii) Any privately owned business located in a
88 building in a historic district where the district is listed in
89 the National Register of Historic Places, where the building has a
90 total occupancy rating of not less than one thousand (1,000) and
91 where the business regularly utilizes ten thousand (10,000) square
92 feet or more in the building for live entertainment, including not
93 only the stage, lobby or area where the audience sits and/or
94 stands, but also any other portion of the building necessary for



95 the operation of the business, including any kitchen area, bar
96 area, storage area and office space, but excluding any area for
97 parking. In addition to the other requirements of this
98 subparagraph, the business must also serve food to guests for
99 compensation within the building and derive the majority of its
100 revenue from event-related fees, including, but not limited to,
101 admission fees or ticket sales to live entertainment in the
102 building, and from the rental of all or part of the facilities of
103 the business in the building to another party for a specific event
104 or function.

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

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

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

111 (iii) Maintained by its members through the
112 payment of annual dues;

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

117 (v) The affairs and management of which are
118 conducted by a board of directors, board of governors, executive



119 committee, or similar governing body chosen by the members at a
120 regular meeting held at some periodic interval; and

121 (vi) No member, officer, agent or employee of
122 which is paid, or directly or indirectly receives, in the form of
123 a salary or other compensation any profit from the distribution or
124 sale of alcoholic beverages to the club or to members or guests of
125 the club beyond such salary or compensation as may be fixed and
126 voted at a proper meeting by the board of directors or other
127 governing body out of the general revenues of the club.

128 The department may, in its discretion, waive the five-year
129 provision of this paragraph. In order to qualify under this
130 paragraph, a club must file with the department, at the time of
131 its application for a license under this chapter, two (2) copies
132 of a list of the names and residences of its members and similarly
133 file, within ten (10) days after the election of any additional
134 member, his name and address. Each club applying for a license
135 shall also file with the department at the time of the application
136 a copy of its articles of association, charter of incorporation,
137 bylaws or other instruments governing the business and affairs
138 thereof.

139 (o) "Qualified resort area" means any area or locality
140 outside of the limits of incorporated municipalities in this state
141 commonly known and accepted as a place which regularly and
142 customarily attracts tourists, vacationists and other transients
143 because of its historical, scenic or recreational facilities or



144 attractions, or because of other attributes which regularly and
145 customarily appeal to and attract tourists, vacationists and other
146 transients in substantial numbers; however, no area or locality
147 shall so qualify as a resort area until it has been duly and
148 properly approved as such by the department.

149 (i) The department may approve an area or locality
150 outside of the limits of an incorporated municipality that is in
151 the process of being developed as a qualified resort area if such
152 area or locality, when developed, can reasonably be expected to
153 meet the requisites of the definition of the term "qualified
154 resort area." In such a case, the status of qualified resort area
155 shall not take effect until completion of the development.

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

164 (iii) The term includes:

165 1. The clubhouses associated with the state
166 park golf courses at the Lefleur's Bluff State Park, the John Kyle
167 State Park, the Percy Quin State Park and the Hugh White State
168 Park;



169 2. The clubhouse and associated golf course
170 where the golf course is adjacent to one or more planned
171 residential developments and the golf course and all such
172 developments collectively include at least seven hundred fifty
173 (750) acres and at least four hundred (400) residential units;

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

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

183 5. Any facility that is located in a
184 municipality that is bordered by the Pearl River, traversed by
185 Mississippi Highway 25, adjacent to the boundaries of the Jackson
186 International Airport and is located in a county which has voted
187 against coming out from under the dry law; however, any such
188 facility may only be located in areas designated by the governing
189 authorities of such municipality;

190 6. Any municipality with a population in
191 excess of ten thousand (10,000) according to the latest federal
192 decennial census that is located in a county that is bordered by
193 the Pearl River and is not traversed by Interstate Highway 20,



194 with a population in excess of forty-five thousand (45,000)
195 according to the latest federal decennial census; however, the
196 governing authorities of such a municipality may by ordinance:

197 a. Specify the hours of operation of
198 facilities that offer alcoholic beverages for sale;

199 b. Specify the percentage of revenue
200 that facilities that offer alcoholic beverages for sale must
201 derive from the preparation, cooking and serving of meals and not
202 from the sale of beverages;

203 c. Designate the areas in which
204 facilities that offer alcoholic beverages for sale may be located;

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

207 8. Land that is * * * located in any county
208 in which Mississippi Highway 43 and Mississippi Highway 25
209 intersect * * * and:

210 a. Owned by the Pearl River Valley Water
211 Supply District, and/or

212 b. Located within the Reservoir
213 Community District, zoned commercial, east of Old Fannin Road,
214 north of Regatta Drive, south of Spillway Road, west of Hugh Ward
215 Boulevard and accessible by Old Fannin Road, Spillway Road, Spann
216 Drive and/or Lake Vista Place;

217 9. Any facility located on property that is a
218 game reserve with restricted access that consists of at least



219 eight hundred (800) contiguous acres with no public roads, that
220 offers as a service hunts for a fee to overnight guests of the
221 facility, and has accommodations for at least fifty (50) overnight
222 guests;

223 10. Any facility that:

224 a. Consists of at least six thousand
225 (6,000) square feet being heated and cooled along with an
226 additional adjacent area that consists of at least two thousand
227 two hundred (2,200) square feet regardless of whether heated and
228 cooled,

229 b. For a fee is used to host events such
230 as weddings, reunions and conventions,

231 c. Provides lodging accommodations
232 regardless of whether part of the facility and/or located adjacent
233 to or in close proximity to the facility, and

234 d. Is located on property that consists
235 of at least thirty (30) contiguous acres;

236 11. Any facility and related property:

237 a. Located on property that consists of
238 at least one hundred twenty-five (125) contiguous acres and
239 consisting of an eighteen (18) hole golf course, and/or located in
240 a facility that consists of at least eight thousand (8,000) square
241 feet being heated and cooled,

242 b. Used for the purpose of providing
243 meals and hosting events, and



244 c. Used for the purpose of teaching
245 culinary arts courses and/or turf management and grounds keeping
246 courses, and/or outdoor recreation and leadership courses;

247 12. Any facility and related property that:

248 a. Consist of at least eight thousand
249 (8,000) square feet being heated and cooled,

250 b. For a fee is used to host events,

251 c. Is located on property on or near a
252 bayou or other waterway,

253 d. Is used for the purpose of culinary
254 arts courses, and/or outdoor recreation and leadership
255 courses * * *;

256 13. The clubhouse and associated golf course
257 where the golf course is adjacent to one or more residential
258 developments and the golf course and all such developments
259 collectively include at least two hundred (200) acres and at least
260 one hundred fifty (150) residential units and are located a. in a
261 county that has voted against coming out from under the dry law;
262 and b. outside of but in close proximity to a municipality in such
263 county which has voted under Section 67-1-14, after January 1,
264 2013, to come out from under the dry law.

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



269 (p) "Native wine" means any product, produced in
270 Mississippi for sale, having an alcohol content not to exceed
271 twenty-one percent (21%) by weight and made in accordance with
272 revenue laws of the United States, which shall be obtained
273 primarily from the alcoholic fermentation of the juice of ripe
274 grapes, fruits, berries or vegetables grown and produced in
275 Mississippi; provided that bulk, concentrated or fortified wines
276 used for blending may be produced without this state and used in
277 producing native wines. The department shall adopt and promulgate
278 rules and regulations to permit a producer to import such bulk
279 and/or fortified wines into this state for use in blending with
280 native wines without payment of any excise tax that would
281 otherwise accrue thereon.

282 (q) "Native winery" means any place or establishment
283 within the State of Mississippi where native wine is produced, in
284 whole or in part, for sale.

285 (r) "Bed and breakfast inn" means an establishment
286 within a municipality where in consideration of payment, breakfast
287 and lodging are habitually furnished to travelers and wherein are
288 located not less than eight (8) and not more than nineteen (19)
289 adequately furnished and completely separate sleeping rooms with
290 adequate facilities, that persons usually apply for and receive as
291 overnight accommodations; however, such restriction on the minimum
292 number of sleeping rooms shall not apply to establishments on the
293 National Register of Historic Places. No place shall qualify as a



294 bed and breakfast inn under this chapter unless on the date of the
295 initial application for a license under this chapter more than
296 fifty percent (50%) of the sleeping rooms are located in a
297 structure formerly used as a residence.

298 (s) "Board" shall refer to the Board of Tax Appeals of
299 the State of Mississippi.

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

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

309 (v) "Cooking school" means an establishment within a
310 municipality or qualified resort area and owned by a nationally
311 recognized company that offers an established culinary education
312 curriculum and program where, in consideration of payment, patrons
313 are given scheduled professional group instruction on culinary
314 techniques. For purposes of this paragraph, the definition of
315 cooking school shall not include schools or classes offered by
316 grocery stores, convenience stores or drugstores.

317 **SECTION 2.** This act shall take effect and be in force from
318 and after July 1, 2016.

