

By: Representatives DeLano, Baria

To: Ways and Means

HOUSE BILL NO. 1223
(As Passed the House)

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF CERTAIN
2 MUNICIPALITIES TO ESTABLISH LEISURE AND RECREATION DISTRICTS
3 WITHIN THE CORPORATE BOUNDARIES OF THE MUNICIPALITY AND DESIGNATE
4 THE GEOGRAPHIC AREA OR AREAS TO BE INCLUDED WITHIN SUCH A
5 DISTRICT; TO PROVIDE THAT THE BOUNDARIES OF A LEISURE AND
6 RECREATION DISTRICT MAY EXTEND FROM WITHIN THE MUNICIPALITY INTO
7 THE UNINCORPORATED AREA OF THE COUNTY IN WHICH THE MUNICIPALITY IS
8 LOCATED IF THE COUNTY CONSENTS TO THE EXTENSION AND HAS VOTED IN
9 FAVOR OF COMING OUT FROM UNDER THE DRY LAW; TO AMEND SECTION
10 67-1-51, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HOLDERS OF
11 CERTAIN PERMITS ISSUED UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE
12 CONTROL LAW MAY SELL ALCOHOLIC BEVERAGES OR WINE TO A PATRON OF
13 THE PERMIT HOLDER IN THE MANNER AUTHORIZED IN THE PERMIT AND THAT
14 THE PATRON MAY REMOVE AN OPEN CONTAINER OF THE ALCOHOLIC BEVERAGE
15 OR WINE FROM THE LICENSED PREMISES AND MAY POSSESS AND CONSUME THE
16 ALCOHOLIC BEVERAGE OR WINE OUTSIDE OF THE LICENSED PREMISES IF THE
17 LICENSED PREMISES IS LOCATED WITHIN A LEISURE AND RECREATION
18 DISTRICT CREATED UNDER THIS ACT AND THE PATRON REMAINS WITHIN THE
19 BOUNDARIES OF THE LEISURE AND RECREATION DISTRICT WHILE IN
20 POSSESSION OF THE ALCOHOLIC BEVERAGE OR WINE; AND FOR RELATED
21 PURPOSES.

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

23 SECTION 1. (1) For the purposes of this section, the
24 following words shall have the following meanings ascribed in this
25 section, unless the context clearly otherwise requires:

26 (a) "Municipality" means any incorporated city, town or
27 village: (i) located in one (1) of the three (3) most southern



28 counties in the State of Mississippi, (ii) located in a county
29 where Interstate 59 and Highway 49 intersect and (iii) the City of
30 Tupelo, Mississippi.

31 (b) "Leisure and recreation district" means an area
32 officially designated by ordinance or resolution of the governing
33 authorities of a municipality as a leisure and recreation
34 district.

35 (2) (a) The governing authorities of a municipality, by
36 ordinance, may establish one (1) or more leisure and recreation
37 districts within the corporate boundaries of the municipality and
38 designate the geographic area or areas to be included within a
39 district. The governing authorities of a municipality, by
40 ordinance, may modify the boundaries of a leisure and recreation
41 district. In addition, the boundaries of a leisure and recreation
42 district may extend from within the municipality into the
43 unincorporated area of the county in which the municipality is
44 located if the county consents to the extension and has voted in
45 favor of coming out from under the dry law.

46 (b) The designation or modification of the geographic
47 area or areas as a leisure and recreation district shall include a
48 detailed description of the area or areas within the district,
49 boundaries of the district and a georeferenced map of the
50 district. In addition to any other matters addressed in an
51 ordinance or resolution establishing or modifying a leisure and
52 recreation district, a municipality must describe the manner in



53 which the municipality will provide for adequate law enforcement
54 and other public safety measures and services within the district.
55 Following the establishment and/or modification of a leisure and
56 recreation district, the municipality shall provide the Department
57 of Revenue with (i) a copy of any ordinance relating to the
58 establishment or modification of the district, (ii) verification
59 from the municipal police department and/or applicable sheriff's
60 department indicating how such department will provide adequate
61 law enforcement and other public safety measures and services
62 within the district and (iii) a list of persons or other entities
63 that hold permits issued under Section 67-1-51 (c), (e), (f), (g),
64 (l), (n) or (o) and are located and/or doing business under such
65 permits in the district at the time the district is established.

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

68 67-1-51. (1) Permits which may be issued by the department
69 shall be as follows:

70 (a) **Manufacturer's permit.** A manufacturer's permit
71 shall permit the manufacture, importation in bulk, bottling and
72 storage of alcoholic liquor and its distribution and sale to
73 manufacturers holding permits under this chapter in this state and
74 to persons outside the state who are authorized by law to purchase
75 the same, and to sell exclusively to the department.

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



77 Class 1. Distiller's and/or rectifier's permit, which shall
78 authorize the holder thereof to operate a distillery for the
79 production of distilled spirits by distillation or redistillation
80 and/or to operate a rectifying plant for the purifying, refining,
81 mixing, blending, flavoring or reducing in proof of distilled
82 spirits and alcohol.

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

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

89 (b) **Package retailer's permit.** Except as otherwise
90 provided in this paragraph and Section 67-1-52, a package
91 retailer's permit shall authorize the holder thereof to operate a
92 store exclusively for the sale at retail in original sealed and
93 unopened packages of alcoholic beverages, including native wines,
94 not to be consumed on the premises where sold. Alcoholic
95 beverages shall not be sold by any retailer in any package or
96 container containing less than fifty (50) milliliters by liquid
97 measure. A package retailer's permit, with prior approval from
98 the department, shall authorize the holder thereof to sample new
99 product furnished by a manufacturer's representative or his
100 employees at the permitted place of business so long as the
101 sampling otherwise complies with this chapter and applicable



102 department regulations. Such samples may not be provided to
103 customers at the permitted place of business. In addition to the
104 sale at retail of packages of alcoholic beverages, the holder of a
105 package retailer's permit is authorized to sell at retail
106 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
107 other beverages commonly used to mix with alcoholic beverages.
108 Nonalcoholic beverages sold by the holder of a package retailer's
109 permit shall not be consumed on the premises where sold.

110 (c) **On-premises retailer's permit.** Except as otherwise
111 provided in subsection (5) of this section, an on-premises
112 retailer's permit shall authorize the sale of alcoholic beverages,
113 including native wines, for consumption on the licensed premises
114 only; however, a patron of the permit holder may remove one (1)
115 bottle of wine from the licensed premises if: (i) the patron
116 consumed a portion of the bottle of wine in the course of
117 consuming a meal purchased on the licensed premises; (ii) the
118 permit holder securely reseals the bottle; (iii) the bottle is
119 placed in a bag that is secured in a manner so that it will be
120 visibly apparent if the bag is opened; and (iv) a dated receipt
121 for the wine and the meal is available. Such a permit shall be
122 issued only to qualified hotels, restaurants and clubs, and to
123 common carriers with adequate facilities for serving passengers.
124 In resort areas, whether inside or outside of a municipality, the
125 department, in its discretion, may issue on-premises retailer's
126 permits to such establishments as it deems proper. An on-premises



127 retailer's permit when issued to a common carrier shall authorize
128 the sale and serving of alcoholic beverages aboard any licensed
129 vehicle while moving through any county of the state; however, the
130 sale of such alcoholic beverages shall not be permitted while such
131 vehicle is stopped in a county that has not legalized such sales.

132 (d) **Solicitor's permit.** A solicitor's permit shall
133 authorize the holder thereof to act as salesman for a manufacturer
134 or wholesaler holding a proper permit, to solicit on behalf of his
135 employer orders for alcoholic beverages, and to otherwise promote
136 his employer's products in a legitimate manner. Such a permit
137 shall authorize the representation of and employment by one (1)
138 principal only. However, the permittee may also, in the
139 discretion of the department, be issued additional permits to
140 represent other principals. No such permittee shall buy or sell
141 alcoholic beverages for his own account, and no such beverage
142 shall be brought into this state in pursuance of the exercise of
143 such permit otherwise than through a permit issued to a wholesaler
144 or manufacturer in the state.

145 (e) **Native wine retailer's permit.** Except as otherwise
146 provided in subsection (5) of this section, a native wine
147 retailer's permit shall be issued only to a holder of a Class 3
148 manufacturer's permit, and shall authorize the holder thereof to
149 make retail sales of native wines to consumers for on-premises
150 consumption or to consumers in originally sealed and unopened



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

153 (f) **Temporary retailer's permit.** Except as otherwise
154 provided in subsection (5) of this section, a temporary retailer's
155 permit shall permit the purchase and resale of alcoholic
156 beverages, including native wines, during legal hours on the
157 premises described in the temporary permit only.

158 Temporary retailer's permits shall be of the following
159 classes:

160 Class 1. A temporary one-day permit may be issued to bona
161 fide nonprofit civic or charitable organizations authorizing the
162 sale of alcoholic beverages, including native wine, for
163 consumption on the premises described in the temporary permit
164 only. Class 1 permits may be issued only to applicants
165 demonstrating to the department, by a statement signed under
166 penalty of perjury submitted ten (10) days prior to the proposed
167 date or such other time as the department may determine, that they
168 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
169 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
170 Class 1 permittees shall obtain all alcoholic beverages from
171 package retailers located in the county in which the temporary
172 permit is issued. Alcoholic beverages remaining in stock upon
173 expiration of the temporary permit may be returned by the
174 permittee to the package retailer for a refund of the purchase
175 price upon consent of the package retailer or may be kept by the



176 permittee exclusively for personal use and consumption, subject to
177 all laws pertaining to the illegal sale and possession of
178 alcoholic beverages. The department, following review of the
179 statement provided by the applicant and the requirements of the
180 applicable statutes and regulations, may issue the permit.

181 Class 2. A temporary permit, not to exceed seventy (70)
182 days, may be issued to prospective permittees seeking to transfer
183 a permit authorized in paragraph (c) of this subsection. A Class
184 2 permit may be issued only to applicants demonstrating to the
185 department, by a statement signed under the penalty of perjury,
186 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
187 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
188 67-1-59. The department, following a preliminary review of the
189 statement provided by the applicant and the requirements of the
190 applicable statutes and regulations, may issue the permit.

191 Class 2 temporary permittees must purchase their alcoholic
192 beverages directly from the department or, with approval of the
193 department, purchase the remaining stock of the previous
194 permittee. If the proposed applicant of a Class 1 or Class 2
195 temporary permit falsifies information contained in the
196 application or statement, the applicant shall never again be
197 eligible for a retail alcohol beverage permit and shall be subject
198 to prosecution for perjury.

199 Class 3. A temporary one-day permit may be issued to a
200 retail establishment authorizing the complimentary distribution of



201 wine, including native wine, to patrons of the retail
202 establishment at an open house or promotional event, for
203 consumption only on the premises described in the temporary
204 permit. A Class 3 permit may be issued only to an applicant
205 demonstrating to the department, by a statement signed under
206 penalty of perjury submitted ten (10) days before the proposed
207 date or such other time as the department may determine, that it
208 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
209 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
210 A Class 3 permit holder shall obtain all alcoholic beverages from
211 the holder(s) of a package retailer's permit located in the county
212 in which the temporary permit is issued. Wine remaining in stock
213 upon expiration of the temporary permit may be returned by the
214 Class 3 temporary permit holder to the package retailer for a
215 refund of the purchase price, with consent of the package
216 retailer, or may be kept by the Class 3 temporary permit holder
217 exclusively for personal use and consumption, subject to all laws
218 pertaining to the illegal sale and possession of alcoholic
219 beverages. The department, following review of the statement
220 provided by the applicant and the requirements of the applicable
221 statutes and regulations, may issue the permit. No retailer may
222 receive more than twelve (12) Class 3 temporary permits in a
223 calendar year. A Class 3 temporary permit shall not be issued to
224 a retail establishment that either holds a merchant permit issued
225 under paragraph (1) of this subsection, or holds a permit issued



226 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
227 the holder to engage in the business of a retailer of light wine
228 or beer.

229 (g) **Caterer's permit.** A caterer's permit shall permit
230 the purchase of alcoholic beverages by a person engaging in
231 business as a caterer and the resale of alcoholic beverages by
232 such person in conjunction with such catering business. No person
233 shall qualify as a caterer unless forty percent (40%) or more of
234 the revenue derived from such catering business shall be from the
235 serving of prepared food and not from the sale of alcoholic
236 beverages and unless such person has obtained a permit for such
237 business from the Department of Health. A caterer's permit shall
238 not authorize the sale of alcoholic beverages on the premises of
239 the person engaging in business as a caterer; however, the holder
240 of an on-premises retailer's permit may hold a caterer's permit.
241 When the holder of an on-premises retailer's permit or an
242 affiliated entity of the holder also holds a caterer's permit, the
243 caterer's permit shall not authorize the service of alcoholic
244 beverages on a consistent, recurring basis at a separate, fixed
245 location owned or operated by the caterer, on-premises retailer or
246 affiliated entity and an on-premises retailer's permit shall be
247 required for the separate location. All sales of alcoholic
248 beverages by holders of a caterer's permit shall be made at the
249 location being catered by the caterer, and, except as otherwise
250 provided in subsection (5) of this section, such sales may be made



251 only for consumption at the catered location. The location being
252 catered may be anywhere within a county or judicial district that
253 has voted to come out from under the dry laws or in which the
254 sale, distribution and possession of alcoholic beverages is
255 otherwise authorized by law. Such sales shall be made pursuant to
256 any other conditions and restrictions which apply to sales made by
257 on-premises retail permittees. The holder of a caterer's permit
258 or his employees shall remain at the catered location as long as
259 alcoholic beverages are being sold pursuant to the permit issued
260 under this paragraph (g), and the permittee shall have at the
261 location the identification card issued by the Alcoholic Beverage
262 Control Division of the department. No unsold alcoholic beverages
263 may be left at the catered location by the permittee upon the
264 conclusion of his business at that location. Appropriate law
265 enforcement officers and Alcoholic Beverage Control Division
266 personnel may enter a catered location on private property in
267 order to enforce laws governing the sale or serving of alcoholic
268 beverages.

269 (h) **Research permit.** A research permit shall authorize
270 the holder thereof to operate a research facility for the
271 professional research of alcoholic beverages. Such permit shall
272 authorize the holder of the permit to import and purchase limited
273 amounts of alcoholic beverages from the department or from
274 importers, wineries and distillers of alcoholic beverages for
275 professional research.



276 (i) **Alcohol processing permit.** An alcohol processing
277 permit shall authorize the holder thereof to purchase, transport
278 and possess alcoholic beverages for the exclusive use in cooking,
279 processing or manufacturing products which contain alcoholic
280 beverages as an integral ingredient. An alcohol processing permit
281 shall not authorize the sale of alcoholic beverages on the
282 premises of the person engaging in the business of cooking,
283 processing or manufacturing products which contain alcoholic
284 beverages. The amounts of alcoholic beverages allowed under an
285 alcohol processing permit shall be set by the department.

286 (j) **Hospitality cart permit.** A hospitality cart permit
287 shall authorize the sale of alcoholic beverages from a mobile cart
288 on a golf course that is the holder of an on-premises retailer's
289 permit. The alcoholic beverages sold from the cart must be
290 consumed within the boundaries of the golf course.

291 (k) **Special service permit.** A special service permit
292 shall authorize the holder to sell commercially sealed alcoholic
293 beverages to the operator of a commercial or private aircraft for
294 en route consumption only by passengers. A special service permit
295 shall be issued only to a fixed-base operator who contracts with
296 an airport facility to provide fueling and other associated
297 services to commercial and private aircraft.

298 (l) **Merchant permit.** Except as otherwise provided in
299 subsection (5) of this section, a merchant permit shall be issued
300 only to the owner of a spa facility, an art studio or gallery, or



301 a cooking school, and shall authorize the holder to serve
302 complimentary by the glass wine only, including native wine, at
303 the holder's spa facility, art studio or gallery, or cooking
304 school. A merchant permit holder shall obtain all wine from the
305 holder of a package retailer's permit.

306 (m) **Temporary wine charitable auction permit.** A
307 temporary permit, not to exceed five (5) days, may be issued to a
308 qualifying charitable nonprofit organization that is exempt from
309 taxation under Section 501(c)(3) or (4) of the Internal Revenue
310 Code of 1986. The permit shall authorize the holder to sell wine
311 for the limited purpose of raising funds for the organization
312 during a live or silent auction that is conducted by the
313 organization and that meets the following requirements: (i) the
314 auction is conducted in an area of the state where the sale of
315 wine is authorized; (ii) if the auction is conducted on the
316 premises of an on-premises retailer's permit holder, then the wine
317 to be auctioned must be stored separately from the wine sold,
318 stored or served on the premises, must be removed from the
319 premises immediately following the auction, and may not be
320 consumed on the premises; (iii) the permit holder may not conduct
321 more than two (2) auctions during a calendar year; (iv) the permit
322 holder may not pay a commission or promotional fee to any person
323 to arrange or conduct the auction.

324 (n) **Event venue retailer's permit.** An event venue
325 retailer's permit shall authorize the holder thereof to purchase



326 and resell alcoholic beverages, including native wines, for
327 consumption on the premises during legal hours during events held
328 on the licensed premises if food is being served at the event by a
329 caterer who is not affiliated with or related to the permittee.
330 The caterer must serve at least three (3) entrees. The permit may
331 only be issued for venues that can accommodate two hundred (200)
332 persons or more. The number of persons a venue may accommodate
333 shall be determined by the local fire department and such
334 determination shall be provided in writing and submitted along
335 with all other documents required to be provided for an
336 on-premises retailer's permit. The permittee must derive the
337 majority of its revenue from event-related fees, including, but
338 not limited to, admission fees or ticket sales for live
339 entertainment in the building. "Event-related fees" do not
340 include alcohol, beer or light wine sales or any fee which may be
341 construed to cover the cost of alcohol, beer or light wine. This
342 determination shall be made on a per event basis. An event may
343 not last longer than two (2) consecutive days per week.

344 (o) **Temporary theatre permit.** A temporary theatre
345 permit, not to exceed five (5) days, may be issued to a charitable
346 nonprofit organization that is exempt from taxation under Section
347 501(c) (3) or (4) of the Internal Revenue Code and owns or operates
348 a theatre facility that features plays and other theatrical
349 performances and productions. Except as otherwise provided in
350 subsection (5) of this section, the permit shall authorize the



351 holder to sell alcoholic beverages, including native wines, to
352 patrons of the theatre during performances and productions at the
353 theatre facility for consumption during such performances and
354 productions on the premises of the facility described in the
355 permit. A temporary theatre permit holder shall obtain all
356 alcoholic beverages from package retailers located in the county
357 in which the permit is issued. Alcoholic beverages remaining in
358 stock upon expiration of the temporary theatre permit may be
359 returned by the permittee to the package retailer for a refund of
360 the purchase price upon consent of the package retailer or may be
361 kept by the permittee exclusively for personal use and
362 consumption, subject to all laws pertaining to the illegal sale
363 and possession of alcoholic beverages.

364 (p) **Charter ship operator's permit.** Subject to the
365 provisions of this paragraph (p), a charter ship operator's permit
366 shall authorize the holder thereof and its employees to serve,
367 monitor, store and otherwise control the serving and availability
368 of alcoholic beverages to customers of the permit holder during
369 private charters under contract provided by the permit holder. A
370 charter ship operator's permit shall authorize such action by the
371 permit holder and its employees only as to alcoholic beverages
372 brought onto the permit holder's ship by customers of the permit
373 holder as part of such a private charter. All such alcoholic
374 beverages must be removed from the charter ship at the conclusion
375 of each private charter. A charter ship operator's permit shall



376 not authorize the permit holder to sell, charge for or otherwise
377 supply alcoholic beverages to customers, except as authorized in
378 this paragraph (p). For the purposes of this paragraph (p),
379 "charter ship operator" means a common carrier that (i) is
380 certified to carry at least one hundred fifty (150) passengers
381 and/or provide overnight accommodations for at least fifty (50)
382 passengers, (ii) operates only in the waters within the State of
383 Mississippi, which lie adjacent to the State of Mississippi south
384 of the three (3) most southern counties in the State of
385 Mississippi, and (iii) provides charters under contract for tours
386 and trips in such waters.

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

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

397 A church or funeral home may waive the distance restrictions
398 imposed in this subsection in favor of allowing issuance by the
399 department of a permit, pursuant to subsection (1) of this
400 section, to authorize activity relating to the manufacturing, sale



401 or storage of alcoholic beverages which would otherwise be
402 prohibited under the minimum distance criterion. Such waiver
403 shall be in written form from the owner, the governing body, or
404 the appropriate officer of the church or funeral home having the
405 authority to execute such a waiver, and the waiver shall be filed
406 with and verified by the department before becoming effective.

407 The distance restrictions imposed in this subsection shall
408 not apply to the sale or storage of alcoholic beverages at a bed
409 and breakfast inn listed in the National Register of Historic
410 Places or to the sale or storage of alcoholic beverages in a
411 historic district that is listed in the National Register of
412 Historic Places, is a qualified resort area and is located in a
413 municipality having a population greater than one hundred thousand
414 (100,000) according to the latest federal decennial census.

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

424 (5) (a) In addition to any other authority granted under
425 this section, the holder of a permit issued under subsection



426 (1) (c), (e), (f), (g), (l), (n) and/or (o) of this section may
427 sell or otherwise provide alcoholic beverages and/or wine to a
428 patron of the permit holder in the manner authorized in the permit
429 and the patron may remove an open glass, cup or other container of
430 the alcoholic beverage and/or wine from the licensed premises and
431 may possess and consume the alcoholic beverage or wine outside of
432 the licensed premises if: (i) the licensed premises is located
433 within a leisure and recreation district created under Section 1
434 of this act and (ii) the patron remains within the boundaries of
435 the leisure and recreation district while in possession of the
436 alcoholic beverage or wine.

437 (b) Nothing in this subsection shall be construed to allow a
438 person to bring any alcoholic beverages into a permitted premises
439 except to the extent otherwise authorized by this chapter.

440 **SECTION 3.** Section 1 of this act shall be codified as a new
441 section in Chapter 1, Title 67, Mississippi Code of 1972.

442 **SECTION 4.** This act shall take effect and be in force from
443 and after July 1, 2016.

