

By: Representative Bennett

To: Ways and Means

HOUSE BILL NO. 840

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A PERMIT TO BE ISSUED TO SHIP ISLAND CHARTER VESSELS FOR
3 THE SALE OF ALCOHOLIC BEVERAGES WHILE UNDERWAY; TO AMEND SECTION
4 99-27-23, MISSISSIPPI CODE OF 1972, REGARDING ABATEMENT OF
5 NUISANCES AND ALCOHOLIC BEVERAGES, IN CONFORMITY WITH THE
6 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

10 67-1-51. (1) Permits which may be issued by the department
11 shall be as follows:

12 (a) **Manufacturer's permit.** A manufacturer's permit
13 shall permit the manufacture, importation in bulk, bottling and
14 storage of alcoholic liquor and its distribution and sale to
15 manufacturers holding permits under this chapter in this state and
16 to persons outside the state who are authorized by law to purchase
17 the same, and to sell exclusively to the department.

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

19 Class 1. Distiller's and/or rectifier's permit, which shall
20 authorize the holder thereof to operate a distillery for the



21 production of distilled spirits by distillation or redistillation
22 and/or to operate a rectifying plant for the purifying, refining,
23 mixing, blending, flavoring or reducing in proof of distilled
24 spirits and alcohol.

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

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

31 (b) **Package retailer's permit.** Except as otherwise
32 provided in this paragraph and Section 67-1-52, a package
33 retailer's permit shall authorize the holder thereof to operate a
34 store exclusively for the sale at retail in original sealed and
35 unopened packages of alcoholic beverages, including native wines,
36 not to be consumed on the premises where sold. Alcoholic
37 beverages shall not be sold by any retailer in any package or
38 container containing less than fifty (50) milliliters by liquid
39 measure. A package retailer's permit, with prior approval from
40 the department, shall authorize the holder thereof to sample new
41 product furnished by a manufacturer's representative or his
42 employees at the permitted place of business so long as the
43 sampling otherwise complies with this chapter and applicable
44 department regulations. Such samples may not be provided to
45 customers at the permitted place of business. In addition to the



46 sale at retail of packages of alcoholic beverages, the holder of a
47 package retailer's permit is authorized to sell at retail
48 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
49 other beverages commonly used to mix with alcoholic beverages.
50 Nonalcoholic beverages sold by the holder of a package retailer's
51 permit shall not be consumed on the premises where sold.

52 (c) **On-premises retailer's permit.** Except as otherwise
53 provided in subsection (5) of this section, an on-premises
54 retailer's permit shall authorize the sale of alcoholic beverages,
55 including native wines, for consumption on the licensed premises
56 only; however, a patron of the permit holder may remove one (1)
57 bottle of wine from the licensed premises if: (i) the patron
58 consumed a portion of the bottle of wine in the course of
59 consuming a meal purchased on the licensed premises; (ii) the
60 permit holder securely reseals the bottle; (iii) the bottle is
61 placed in a bag that is secured in a manner so that it will be
62 visibly apparent if the bag is opened; and (iv) a dated receipt
63 for the wine and the meal is available. Such a permit shall be
64 issued only to qualified hotels, restaurants and clubs, and to
65 common carriers with adequate facilities for serving passengers.
66 In resort areas, whether inside or outside of a municipality, the
67 department, in its discretion, may issue on-premises retailer's
68 permits to such establishments as it deems proper. An on-premises
69 retailer's permit when issued to a common carrier shall authorize
70 the sale and serving of alcoholic beverages aboard any licensed



71 vehicle while moving through any county of the state; however, the
72 sale of such alcoholic beverages shall not be permitted while such
73 vehicle is stopped in a county that has not legalized such sales.

74 (d) **Solicitor's permit.** A solicitor's permit shall
75 authorize the holder thereof to act as salesman for a manufacturer
76 or wholesaler holding a proper permit, to solicit on behalf of his
77 employer orders for alcoholic beverages, and to otherwise promote
78 his employer's products in a legitimate manner. Such a permit
79 shall authorize the representation of and employment by one (1)
80 principal only. However, the permittee may also, in the
81 discretion of the department, be issued additional permits to
82 represent other principals. No such permittee shall buy or sell
83 alcoholic beverages for his own account, and no such beverage
84 shall be brought into this state in pursuance of the exercise of
85 such permit otherwise than through a permit issued to a wholesaler
86 or manufacturer in the state.

87 (e) **Native wine retailer's permit.** Except as otherwise
88 provided in subsection (5) of this section, a native wine
89 retailer's permit shall be issued only to a holder of a Class 3
90 manufacturer's permit, and shall authorize the holder thereof to
91 make retail sales of native wines to consumers for on-premises
92 consumption or to consumers in originally sealed and unopened
93 containers at an establishment located on the premises of or in
94 the immediate vicinity of a native winery.



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

100 Temporary retailer's permits shall be of the following
101 classes:

102 Class 1. A temporary one-day permit may be issued to bona
103 fide nonprofit civic or charitable organizations authorizing the
104 sale of alcoholic beverages, including native wine, for
105 consumption on the premises described in the temporary permit
106 only. Class 1 permits may be issued only to applicants
107 demonstrating to the department, by a statement signed under
108 penalty of perjury submitted ten (10) days prior to the proposed
109 date or such other time as the department may determine, that they
110 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
111 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
112 Class 1 permittees shall obtain all alcoholic beverages from
113 package retailers located in the county in which the temporary
114 permit is issued. Alcoholic beverages remaining in stock upon
115 expiration of the temporary permit may be returned by the
116 permittee to the package retailer for a refund of the purchase
117 price upon consent of the package retailer or may be kept by the
118 permittee exclusively for personal use and consumption, subject to
119 all laws pertaining to the illegal sale and possession of



120 alcoholic beverages. The department, following review of the
121 statement provided by the applicant and the requirements of the
122 applicable statutes and regulations, may issue the permit.

123 Class 2. A temporary permit, not to exceed seventy (70)
124 days, may be issued to prospective permittees seeking to transfer
125 a permit authorized in paragraph (c) of this subsection. A Class
126 2 permit may be issued only to applicants demonstrating to the
127 department, by a statement signed under the penalty of perjury,
128 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
129 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
130 67-1-59. The department, following a preliminary review of the
131 statement provided by the applicant and the requirements of the
132 applicable statutes and regulations, may issue the permit.

133 Class 2 temporary permittees must purchase their alcoholic
134 beverages directly from the department or, with approval of the
135 department, purchase the remaining stock of the previous
136 permittee. If the proposed applicant of a Class 1 or Class 2
137 temporary permit falsifies information contained in the
138 application or statement, the applicant shall never again be
139 eligible for a retail alcohol beverage permit and shall be subject
140 to prosecution for perjury.

141 Class 3. A temporary one-day permit may be issued to a
142 retail establishment authorizing the complimentary distribution of
143 wine, including native wine, to patrons of the retail
144 establishment at an open house or promotional event, for



145 consumption only on the premises described in the temporary
146 permit. A Class 3 permit may be issued only to an applicant
147 demonstrating to the department, by a statement signed under
148 penalty of perjury submitted ten (10) days before the proposed
149 date or such other time as the department may determine, that it
150 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
151 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
152 A Class 3 permit holder shall obtain all alcoholic beverages from
153 the holder(s) of a package retailer's permit located in the county
154 in which the temporary permit is issued. Wine remaining in stock
155 upon expiration of the temporary permit may be returned by the
156 Class 3 temporary permit holder to the package retailer for a
157 refund of the purchase price, with consent of the package
158 retailer, or may be kept by the Class 3 temporary permit holder
159 exclusively for personal use and consumption, subject to all laws
160 pertaining to the illegal sale and possession of alcoholic
161 beverages. The department, following review of the statement
162 provided by the applicant and the requirements of the applicable
163 statutes and regulations, may issue the permit. No retailer may
164 receive more than twelve (12) Class 3 temporary permits in a
165 calendar year. A Class 3 temporary permit shall not be issued to
166 a retail establishment that either holds a merchant permit issued
167 under paragraph (1) of this subsection, or holds a permit issued
168 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing



169 the holder to engage in the business of a retailer of light wine
170 or beer.

171 (g) **Caterer's permit.** A caterer's permit shall permit
172 the purchase of alcoholic beverages by a person engaging in
173 business as a caterer and the resale of alcoholic beverages by
174 such person in conjunction with such catering business. No person
175 shall qualify as a caterer unless forty percent (40%) or more of
176 the revenue derived from such catering business shall be from the
177 serving of prepared food and not from the sale of alcoholic
178 beverages and unless such person has obtained a permit for such
179 business from the Department of Health. A caterer's permit shall
180 not authorize the sale of alcoholic beverages on the premises of
181 the person engaging in business as a caterer; however, the holder
182 of an on-premises retailer's permit may hold a caterer's permit.
183 When the holder of an on-premises retailer's permit or an
184 affiliated entity of the holder also holds a caterer's permit, the
185 caterer's permit shall not authorize the service of alcoholic
186 beverages on a consistent, recurring basis at a separate, fixed
187 location owned or operated by the caterer, on-premises retailer or
188 affiliated entity and an on-premises retailer's permit shall be
189 required for the separate location. All sales of alcoholic
190 beverages by holders of a caterer's permit shall be made at the
191 location being catered by the caterer, and, except as otherwise
192 provided in subsection (5) of this section, such sales may be made
193 only for consumption at the catered location. The location being



194 catered may be anywhere within a county or judicial district that
195 has voted to come out from under the dry laws or in which the
196 sale, distribution and possession of alcoholic beverages is
197 otherwise authorized by law. Such sales shall be made pursuant to
198 any other conditions and restrictions which apply to sales made by
199 on-premises retail permittees. The holder of a caterer's permit
200 or his employees shall remain at the catered location as long as
201 alcoholic beverages are being sold pursuant to the permit issued
202 under this paragraph (g), and the permittee shall have at the
203 location the identification card issued by the Alcoholic Beverage
204 Control Division of the department. No unsold alcoholic beverages
205 may be left at the catered location by the permittee upon the
206 conclusion of his business at that location. Appropriate law
207 enforcement officers and Alcoholic Beverage Control Division
208 personnel may enter a catered location on private property in
209 order to enforce laws governing the sale or serving of alcoholic
210 beverages.

211 (h) **Research permit.** A research permit shall authorize
212 the holder thereof to operate a research facility for the
213 professional research of alcoholic beverages. Such permit shall
214 authorize the holder of the permit to import and purchase limited
215 amounts of alcoholic beverages from the department or from
216 importers, wineries and distillers of alcoholic beverages for
217 professional research.



218 (i) **Alcohol processing permit.** An alcohol processing
219 permit shall authorize the holder thereof to purchase, transport
220 and possess alcoholic beverages for the exclusive use in cooking,
221 processing or manufacturing products which contain alcoholic
222 beverages as an integral ingredient. An alcohol processing permit
223 shall not authorize the sale of alcoholic beverages on the
224 premises of the person engaging in the business of cooking,
225 processing or manufacturing products which contain alcoholic
226 beverages. The amounts of alcoholic beverages allowed under an
227 alcohol processing permit shall be set by the department.

228 (j) **Hospitality cart permit.** A hospitality cart permit
229 shall authorize the sale of alcoholic beverages from a mobile cart
230 on a golf course that is the holder of an on-premises retailer's
231 permit. The alcoholic beverages sold from the cart must be
232 consumed within the boundaries of the golf course.

233 (k) **Special service permit.** A special service permit
234 shall authorize the holder to sell commercially sealed alcoholic
235 beverages to the operator of a commercial or private aircraft for
236 en route consumption only by passengers. A special service permit
237 shall be issued only to a fixed-base operator who contracts with
238 an airport facility to provide fueling and other associated
239 services to commercial and private aircraft.

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



243 a cooking school, and shall authorize the holder to serve
244 complimentary by the glass wine only, including native wine, at
245 the holder's spa facility, art studio or gallery, or cooking
246 school. A merchant permit holder shall obtain all wine from the
247 holder of a package retailer's permit.

248 (m) **Temporary wine charitable auction permit.** A
249 temporary permit, not to exceed five (5) days, may be issued to a
250 qualifying charitable nonprofit organization that is exempt from
251 taxation under Section 501(c)(3) or (4) of the Internal Revenue
252 Code of 1986. The permit shall authorize the holder to sell wine
253 for the limited purpose of raising funds for the organization
254 during a live or silent auction that is conducted by the
255 organization and that meets the following requirements: (i) the
256 auction is conducted in an area of the state where the sale of
257 wine is authorized; (ii) if the auction is conducted on the
258 premises of an on-premises retailer's permit holder, then the wine
259 to be auctioned must be stored separately from the wine sold,
260 stored or served on the premises, must be removed from the
261 premises immediately following the auction, and may not be
262 consumed on the premises; (iii) the permit holder may not conduct
263 more than two (2) auctions during a calendar year; (iv) the permit
264 holder may not pay a commission or promotional fee to any person
265 to arrange or conduct the auction.

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



268 and resell alcoholic beverages, including native wines, for
269 consumption on the premises during legal hours during events held
270 on the licensed premises if food is being served at the event by a
271 caterer who is not affiliated with or related to the permittee.
272 The caterer must serve at least three (3) entrees. The permit may
273 only be issued for venues that can accommodate two hundred (200)
274 persons or more. The number of persons a venue may accommodate
275 shall be determined by the local fire department and such
276 determination shall be provided in writing and submitted along
277 with all other documents required to be provided for an
278 on-premises retailer's permit. The permittee must derive the
279 majority of its revenue from event-related fees, including, but
280 not limited to, admission fees or ticket sales for live
281 entertainment in the building. "Event-related fees" do not
282 include alcohol, beer or light wine sales or any fee which may be
283 construed to cover the cost of alcohol, beer or light wine. This
284 determination shall be made on a per event basis. An event may
285 not last longer than two (2) consecutive days per week.

286 (o) **Temporary theatre permit.** A temporary theatre
287 permit, not to exceed five (5) days, may be issued to a charitable
288 nonprofit organization that is exempt from taxation under Section
289 501(c)(3) or (4) of the Internal Revenue Code and owns or operates
290 a theatre facility that features plays and other theatrical
291 performances and productions. Except as otherwise provided in
292 subsection (5) of this section, the permit shall authorize the



293 holder to sell alcoholic beverages, including native wines, to
294 patrons of the theatre during performances and productions at the
295 theatre facility for consumption during such performances and
296 productions on the premises of the facility described in the
297 permit. A temporary theatre permit holder shall obtain all
298 alcoholic beverages from package retailers located in the county
299 in which the permit is issued. Alcoholic beverages remaining in
300 stock upon expiration of the temporary theatre permit may be
301 returned by the permittee to the package retailer for a refund of
302 the purchase price upon consent of the package retailer or may be
303 kept by the permittee exclusively for personal use and
304 consumption, subject to all laws pertaining to the illegal sale
305 and possession of alcoholic beverages.

306 (p) **Charter ship operator's permit.** Subject to the
307 provisions of this paragraph (p), a charter ship operator's permit
308 shall authorize the holder thereof and its employees to serve,
309 monitor, store and otherwise control the serving and availability
310 of alcoholic beverages to customers of the permit holder during
311 private charters under contract provided by the permit holder. A
312 charter ship operator's permit shall authorize such action by the
313 permit holder and its employees only as to alcoholic beverages
314 brought onto the permit holder's ship by customers of the permit
315 holder as part of such a private charter. All such alcoholic
316 beverages must be removed from the charter ship at the conclusion
317 of each private charter. A charter ship operator's permit shall



318 not authorize the permit holder to sell, charge for or otherwise
319 supply alcoholic beverages to customers, except as authorized in
320 this paragraph (p). For the purposes of this paragraph (p),
321 "charter ship operator" means a common carrier that (i) is
322 certified to carry at least one hundred fifty (150) passengers
323 and/or provide overnight accommodations for at least fifty (50)
324 passengers, (ii) operates only in the waters within the State of
325 Mississippi, which lie adjacent to the State of Mississippi south
326 of the three (3) most southern counties in the State of
327 Mississippi, and (iii) provides charters under contract for tours
328 and trips in such waters.

329 (q) **Ship Island charter vessel permit.** A Ship Island
330 charter vessel permit shall authorize the holder of the permit and
331 its employees to sell, serve, monitor, store and otherwise control
332 the serving and availability of alcoholic beverages to customers
333 of the permit holder during private charters under contract
334 provided by the permit holder. Alcoholic beverages may not be
335 sold or served on the vessel except when the vessel is underway.
336 For the purposes of this paragraph (q), "Ship Island charter
337 vessel" means a common carrier that (i) is certified to carry at
338 least one (1) passenger, (ii) operates only in the waters within
339 the State of Mississippi that lie adjacent to the state south of
340 Harrison County, and (iii) provides charter vessel transportation
341 from Harrison County to Ship Island under contract for tours and
342 trips.



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

346 (3) Except as otherwise provided in this subsection, no
347 authority shall be granted to any person to manufacture, sell or
348 store for sale any intoxicating liquor as specified in this
349 chapter within four hundred (400) feet of any church, school,
350 kindergarten or funeral home. However, within an area zoned
351 commercial or business, such minimum distance shall be not less
352 than one hundred (100) feet.

353 A church or funeral home may waive the distance restrictions
354 imposed in this subsection in favor of allowing issuance by the
355 department of a permit, pursuant to subsection (1) of this
356 section, to authorize activity relating to the manufacturing, sale
357 or storage of alcoholic beverages which would otherwise be
358 prohibited under the minimum distance criterion. Such waiver
359 shall be in written form from the owner, the governing body, or
360 the appropriate officer of the church or funeral home having the
361 authority to execute such a waiver, and the waiver shall be filed
362 with and verified by the department before becoming effective.

363 The distance restrictions imposed in this subsection shall
364 not apply to the sale or storage of alcoholic beverages at a bed
365 and breakfast inn listed in the National Register of Historic
366 Places or to the sale or storage of alcoholic beverages in a
367 historic district that is listed in the National Register of



368 Historic Places, is a qualified resort area and is located in a
369 municipality having a population greater than one hundred thousand
370 (100,000) according to the latest federal decennial census.

371 (4) No person, either individually or as a member of a firm,
372 partnership, limited liability company or association, or as a
373 stockholder, officer or director in a corporation, shall own or
374 control any interest in more than one (1) package retailer's
375 permit, nor shall such person's spouse, if living in the same
376 household of such person, any relative of such person, if living
377 in the same household of such person, or any other person living
378 in the same household with such person own any interest in any
379 other package retailer's permit.

380 (5) (a) In addition to any other authority granted under
381 this section, the holder of a permit issued under subsection
382 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
383 sell or otherwise provide alcoholic beverages and/or wine to a
384 patron of the permit holder in the manner authorized in the permit
385 and the patron may remove an open glass, cup or other container of
386 the alcoholic beverage and/or wine from the licensed premises and
387 may possess and consume the alcoholic beverage or wine outside of
388 the licensed premises if: (i) the licensed premises is located
389 within a leisure and recreation district created under Section
390 67-1-101 and (ii) the patron remains within the boundaries of the
391 leisure and recreation district while in possession of the
392 alcoholic beverage or wine.



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

397 **SECTION 2.** Section 99-27-23, Mississippi Code of 1972, is
398 amended as follows:

399 99-27-23. Except as authorized in Section 67-1-51(1)(q), any
400 club, vessel or boat, place or room where liquors are found, kept
401 or possessed on any boat or vessel used in any of the waters of
402 this state in conveying any intoxicating liquors or any person
403 with intoxicating liquor in their possession or under their
404 control into or in this state shall be deemed to be a common
405 nuisance and may be abated by writ of injunction issued out of a
406 court of equity upon a bill filed in the name of the state by the
407 attorney general or any district or county attorney whose duty
408 requires him to prosecute criminal cases on behalf of the state,
409 in the county where the nuisance is maintained, or by any citizen
410 or citizens of such county, such bill to be filed in the county in
411 which the nuisance exists. And all rules of evidence and the
412 practice and procedure that pertain to courts of equity generally
413 in this state may be invoked and applied in any injunction
414 procedure hereunder. Upon the abatement of any such place as a
415 nuisance the person found to be the possessor or owner of such
416 liquor may be required by the court to enter into a good and
417 sufficient bond in such amount as may be deemed proper by the



418 court, to be conditioned that the obligor therein will not violate
419 any of the prohibition laws of the State of Mississippi for a
420 period not to exceed two years from the date thereof. The failure
421 to make such bond shall be a contempt of court and for such
422 contempt the person or party shall be confined in the county jail
423 until such bond is made, but not longer than two years. Said bond
424 shall be approved by the clerk of the court where the proceedings
425 were had and shall be filed as a part of the record of such case.

426 **SECTION 3.** This act shall take effect and be in force from
427 and after July 1, 2018.

