

By: Representative Bennett

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 840

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT IF A COMMON CARRIER OPERATING SOLELY IN THE WATER  
3 APPLIES FOR AN ON-PREMISES RETAILER'S PERMIT UNDER THE LOCAL  
4 OPTION ALCOHOLIC BEVERAGE CONTROL LAW, SUCH COMMON CARRIER MUST,  
5 ALONG WITH ALL OTHER QUALIFICATIONS FOR A PERMIT, BE CERTIFIED TO  
6 CARRY AT LEAST ONE HUNDRED FIFTY PASSENGERS OR PROVIDE OVERNIGHT  
7 ACCOMMODATIONS FOR AT LEAST FIFTY PASSENGERS AND OPERATE PRIMARILY  
8 IN THE WATERS WITHIN THE STATE OF MISSISSIPPI WHICH LIE ADJACENT  
9 TO THE STATE OF MISSISSIPPI SOUTH OF THE THREE MOST SOUTHERN  
10 COUNTIES IN THE STATE OF MISSISSIPPI OR ON THE MISSISSIPPI RIVER  
11 OR NAVIGABLE WATERS WITHIN ANY COUNTY BORDERING ON THE MISSISSIPPI  
12 RIVER; TO AMEND SECTION 99-27-23, MISSISSIPPI CODE OF 1972,  
13 REGARDING ABATEMENT OF NUISANCES AND ALCOHOLIC BEVERAGES, IN  
14 CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED  
15 PURPOSES.

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

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

19 67-1-51. (1) Permits which may be issued by the department  
20 shall be as follows:

21 (a) **Manufacturer's permit.** A manufacturer's permit  
22 shall permit the manufacture, importation in bulk, bottling and  
23 storage of alcoholic liquor and its distribution and sale to  
24 manufacturers holding permits under this chapter in this state and



25 to persons outside the state who are authorized by law to purchase  
26 the same, and to sell exclusively to the department.

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

28 Class 1. Distiller's and/or rectifier's permit, which shall  
29 authorize the holder thereof to operate a distillery for the  
30 production of distilled spirits by distillation or redistillation  
31 and/or to operate a rectifying plant for the purifying, refining,  
32 mixing, blending, flavoring or reducing in proof of distilled  
33 spirits and alcohol.

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

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

40 (b) **Package retailer's permit.** Except as otherwise  
41 provided in this paragraph and Section 67-1-52, a package  
42 retailer's permit shall authorize the holder thereof to operate a  
43 store exclusively for the sale at retail in original sealed and  
44 unopened packages of alcoholic beverages, including native wines,  
45 not to be consumed on the premises where sold. Alcoholic  
46 beverages shall not be sold by any retailer in any package or  
47 container containing less than fifty (50) milliliters by liquid  
48 measure. A package retailer's permit, with prior approval from  
49 the department, shall authorize the holder thereof to sample new



50 product furnished by a manufacturer's representative or his  
51 employees at the permitted place of business so long as the  
52 sampling otherwise complies with this chapter and applicable  
53 department regulations. Such samples may not be provided to  
54 customers at the permitted place of business. In addition to the  
55 sale at retail of packages of alcoholic beverages, the holder of a  
56 package retailer's permit is authorized to sell at retail  
57 corkscrews, wine glasses, soft drinks, ice, juices, mixers and  
58 other beverages commonly used to mix with alcoholic beverages.  
59 Nonalcoholic beverages sold by the holder of a package retailer's  
60 permit shall not be consumed on the premises where sold.

61 (c) **On-premises retailer's permit.** Except as otherwise  
62 provided in subsection (5) of this section, an on-premises  
63 retailer's permit shall authorize the sale of alcoholic beverages,  
64 including native wines, for consumption on the licensed premises  
65 only; however, a patron of the permit holder may remove one (1)  
66 bottle of wine from the licensed premises if: (i) the patron  
67 consumed a portion of the bottle of wine in the course of  
68 consuming a meal purchased on the licensed premises; (ii) the  
69 permit holder securely reseals the bottle; (iii) the bottle is  
70 placed in a bag that is secured in a manner so that it will be  
71 visibly apparent if the bag is opened; and (iv) a dated receipt  
72 for the wine and the meal is available. Such a permit shall be  
73 issued only to qualified hotels, restaurants and clubs, and to  
74 common carriers with adequate facilities for serving passengers.



75 In resort areas, whether inside or outside of a municipality, the  
76 department, in its discretion, may issue on-premises retailer's  
77 permits to such establishments as it deems proper. An on-premises  
78 retailer's permit when issued to a common carrier shall authorize  
79 the sale and serving of alcoholic beverages aboard any licensed  
80 vehicle while moving through any county of the state; however, the  
81 sale of such alcoholic beverages shall not be permitted while such  
82 vehicle is stopped in a county that has not legalized such sales.  
83 If an on-premises retailer's permit is applied for by a common  
84 carrier operating solely in the water, such common carrier must,  
85 along with all other qualifications for a permit, (i) be certified  
86 to carry at least one hundred fifty (150) passengers and/or  
87 provide overnight accommodations for at least fifty (50)  
88 passengers and (ii) operate primarily in the waters within the  
89 State of Mississippi which lie adjacent to the State of  
90 Mississippi south of the three (3) most southern counties in the  
91 State of Mississippi and/or on the Mississippi River or navigable  
92 waters within any county bordering on the Mississippi River.

93 (d) **Solicitor's permit.** A solicitor's permit shall  
94 authorize the holder thereof to act as salesman for a manufacturer  
95 or wholesaler holding a proper permit, to solicit on behalf of his  
96 employer orders for alcoholic beverages, and to otherwise promote  
97 his employer's products in a legitimate manner. Such a permit  
98 shall authorize the representation of and employment by one (1)  
99 principal only. However, the permittee may also, in the



100 discretion of the department, be issued additional permits to  
101 represent other principals. No such permittee shall buy or sell  
102 alcoholic beverages for his own account, and no such beverage  
103 shall be brought into this state in pursuance of the exercise of  
104 such permit otherwise than through a permit issued to a wholesaler  
105 or manufacturer in the state.

106           (e) **Native wine retailer's permit.** Except as otherwise  
107 provided in subsection (5) of this section, a native wine  
108 retailer's permit shall be issued only to a holder of a Class 3  
109 manufacturer's permit, and shall authorize the holder thereof to  
110 make retail sales of native wines to consumers for on-premises  
111 consumption or to consumers in originally sealed and unopened  
112 containers at an establishment located on the premises of or in  
113 the immediate vicinity of a native winery.

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

119           Temporary retailer's permits shall be of the following  
120 classes:

121           Class 1. A temporary one-day permit may be issued to bona  
122 fide nonprofit civic or charitable organizations authorizing the  
123 sale of alcoholic beverages, including native wine, for  
124 consumption on the premises described in the temporary permit



125 only. Class 1 permits may be issued only to applicants  
126 demonstrating to the department, by a statement signed under  
127 penalty of perjury submitted ten (10) days prior to the proposed  
128 date or such other time as the department may determine, that they  
129 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)  
130 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.  
131 Class 1 permittees shall obtain all alcoholic beverages from  
132 package retailers located in the county in which the temporary  
133 permit is issued. Alcoholic beverages remaining in stock upon  
134 expiration of the temporary permit may be returned by the  
135 permittee to the package retailer for a refund of the purchase  
136 price upon consent of the package retailer or may be kept by the  
137 permittee exclusively for personal use and consumption, subject to  
138 all laws pertaining to the illegal sale and possession of  
139 alcoholic beverages. The department, following review of the  
140 statement provided by the applicant and the requirements of the  
141 applicable statutes and regulations, may issue the permit.

142 Class 2. A temporary permit, not to exceed seventy (70)  
143 days, may be issued to prospective permittees seeking to transfer  
144 a permit authorized in paragraph (c) of this subsection. A Class  
145 2 permit may be issued only to applicants demonstrating to the  
146 department, by a statement signed under the penalty of perjury,  
147 that they meet the qualifications of Sections 67-1-5(1), (m), (n),  
148 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and  
149 67-1-59. The department, following a preliminary review of the



150 statement provided by the applicant and the requirements of the  
151 applicable statutes and regulations, may issue the permit.

152 Class 2 temporary permittees must purchase their alcoholic  
153 beverages directly from the department or, with approval of the  
154 department, purchase the remaining stock of the previous  
155 permittee. If the proposed applicant of a Class 1 or Class 2  
156 temporary permit falsifies information contained in the  
157 application or statement, the applicant shall never again be  
158 eligible for a retail alcohol beverage permit and shall be subject  
159 to prosecution for perjury.

160 Class 3. A temporary one-day permit may be issued to a  
161 retail establishment authorizing the complimentary distribution of  
162 wine, including native wine, to patrons of the retail  
163 establishment at an open house or promotional event, for  
164 consumption only on the premises described in the temporary  
165 permit. A Class 3 permit may be issued only to an applicant  
166 demonstrating to the department, by a statement signed under  
167 penalty of perjury submitted ten (10) days before the proposed  
168 date or such other time as the department may determine, that it  
169 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)  
170 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.  
171 A Class 3 permit holder shall obtain all alcoholic beverages from  
172 the holder(s) of a package retailer's permit located in the county  
173 in which the temporary permit is issued. Wine remaining in stock  
174 upon expiration of the temporary permit may be returned by the



175 Class 3 temporary permit holder to the package retailer for a  
176 refund of the purchase price, with consent of the package  
177 retailer, or may be kept by the Class 3 temporary permit holder  
178 exclusively for personal use and consumption, subject to all laws  
179 pertaining to the illegal sale and possession of alcoholic  
180 beverages. The department, following review of the statement  
181 provided by the applicant and the requirements of the applicable  
182 statutes and regulations, may issue the permit. No retailer may  
183 receive more than twelve (12) Class 3 temporary permits in a  
184 calendar year. A Class 3 temporary permit shall not be issued to  
185 a retail establishment that either holds a merchant permit issued  
186 under paragraph (1) of this subsection, or holds a permit issued  
187 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing  
188 the holder to engage in the business of a retailer of light wine  
189 or beer.

190 (g) **Caterer's permit.** A caterer's permit shall permit  
191 the purchase of alcoholic beverages by a person engaging in  
192 business as a caterer and the resale of alcoholic beverages by  
193 such person in conjunction with such catering business. No person  
194 shall qualify as a caterer unless forty percent (40%) or more of  
195 the revenue derived from such catering business shall be from the  
196 serving of prepared food and not from the sale of alcoholic  
197 beverages and unless such person has obtained a permit for such  
198 business from the Department of Health. A caterer's permit shall  
199 not authorize the sale of alcoholic beverages on the premises of





200 the person engaging in business as a caterer; however, the holder  
201 of an on-premises retailer's permit may hold a caterer's permit.  
202 When the holder of an on-premises retailer's permit or an  
203 affiliated entity of the holder also holds a caterer's permit, the  
204 caterer's permit shall not authorize the service of alcoholic  
205 beverages on a consistent, recurring basis at a separate, fixed  
206 location owned or operated by the caterer, on-premises retailer or  
207 affiliated entity and an on-premises retailer's permit shall be  
208 required for the separate location. All sales of alcoholic  
209 beverages by holders of a caterer's permit shall be made at the  
210 location being catered by the caterer, and, except as otherwise  
211 provided in subsection (5) of this section, such sales may be made  
212 only for consumption at the catered location. The location being  
213 catered may be anywhere within a county or judicial district that  
214 has voted to come out from under the dry laws or in which the  
215 sale, distribution and possession of alcoholic beverages is  
216 otherwise authorized by law. Such sales shall be made pursuant to  
217 any other conditions and restrictions which apply to sales made by  
218 on-premises retail permittees. The holder of a caterer's permit  
219 or his employees shall remain at the catered location as long as  
220 alcoholic beverages are being sold pursuant to the permit issued  
221 under this paragraph (g), and the permittee shall have at the  
222 location the identification card issued by the Alcoholic Beverage  
223 Control Division of the department. No unsold alcoholic beverages  
224 may be left at the catered location by the permittee upon the



225 conclusion of his business at that location. Appropriate law  
226 enforcement officers and Alcoholic Beverage Control Division  
227 personnel may enter a catered location on private property in  
228 order to enforce laws governing the sale or serving of alcoholic  
229 beverages.

230 (h) **Research permit.** A research permit shall authorize  
231 the holder thereof to operate a research facility for the  
232 professional research of alcoholic beverages. Such permit shall  
233 authorize the holder of the permit to import and purchase limited  
234 amounts of alcoholic beverages from the department or from  
235 importers, wineries and distillers of alcoholic beverages for  
236 professional research.

237 (i) **Alcohol processing permit.** An alcohol processing  
238 permit shall authorize the holder thereof to purchase, transport  
239 and possess alcoholic beverages for the exclusive use in cooking,  
240 processing or manufacturing products which contain alcoholic  
241 beverages as an integral ingredient. An alcohol processing permit  
242 shall not authorize the sale of alcoholic beverages on the  
243 premises of the person engaging in the business of cooking,  
244 processing or manufacturing products which contain alcoholic  
245 beverages. The amounts of alcoholic beverages allowed under an  
246 alcohol processing permit shall be set by the department.

247 (j) **Hospitality cart permit.** A hospitality cart permit  
248 shall authorize the sale of alcoholic beverages from a mobile cart  
249 on a golf course that is the holder of an on-premises retailer's



250 permit. The alcoholic beverages sold from the cart must be  
251 consumed within the boundaries of the golf course.

252 (k) **Special service permit.** A special service permit  
253 shall authorize the holder to sell commercially sealed alcoholic  
254 beverages to the operator of a commercial or private aircraft for  
255 en route consumption only by passengers. A special service permit  
256 shall be issued only to a fixed-base operator who contracts with  
257 an airport facility to provide fueling and other associated  
258 services to commercial and private aircraft.

259 (l) **Merchant permit.** Except as otherwise provided in  
260 subsection (5) of this section, a merchant permit shall be issued  
261 only to the owner of a spa facility, an art studio or gallery, or  
262 a cooking school, and shall authorize the holder to serve  
263 complimentary by the glass wine only, including native wine, at  
264 the holder's spa facility, art studio or gallery, or cooking  
265 school. A merchant permit holder shall obtain all wine from the  
266 holder of a package retailer's permit.

267 (m) **Temporary wine charitable auction permit.** A  
268 temporary permit, not to exceed five (5) days, may be issued to a  
269 qualifying charitable nonprofit organization that is exempt from  
270 taxation under Section 501(c)(3) or (4) of the Internal Revenue  
271 Code of 1986. The permit shall authorize the holder to sell wine  
272 for the limited purpose of raising funds for the organization  
273 during a live or silent auction that is conducted by the  
274 organization and that meets the following requirements: (i) the



275 auction is conducted in an area of the state where the sale of  
276 wine is authorized; (ii) if the auction is conducted on the  
277 premises of an on-premises retailer's permit holder, then the wine  
278 to be auctioned must be stored separately from the wine sold,  
279 stored or served on the premises, must be removed from the  
280 premises immediately following the auction, and may not be  
281 consumed on the premises; (iii) the permit holder may not conduct  
282 more than two (2) auctions during a calendar year; (iv) the permit  
283 holder may not pay a commission or promotional fee to any person  
284 to arrange or conduct the auction.

285           (n) **Event venue retailer's permit.** An event venue  
286 retailer's permit shall authorize the holder thereof to purchase  
287 and resell alcoholic beverages, including native wines, for  
288 consumption on the premises during legal hours during events held  
289 on the licensed premises if food is being served at the event by a  
290 caterer who is not affiliated with or related to the permittee.  
291 The caterer must serve at least three (3) entrees. The permit may  
292 only be issued for venues that can accommodate two hundred (200)  
293 persons or more. The number of persons a venue may accommodate  
294 shall be determined by the local fire department and such  
295 determination shall be provided in writing and submitted along  
296 with all other documents required to be provided for an  
297 on-premises retailer's permit. The permittee must derive the  
298 majority of its revenue from event-related fees, including, but  
299 not limited to, admission fees or ticket sales for live



300 entertainment in the building. "Event-related fees" do not  
301 include alcohol, beer or light wine sales or any fee which may be  
302 construed to cover the cost of alcohol, beer or light wine. This  
303 determination shall be made on a per event basis. An event may  
304 not last longer than two (2) consecutive days per week.

305           (o) **Temporary theatre permit.** A temporary theatre  
306 permit, not to exceed five (5) days, may be issued to a charitable  
307 nonprofit organization that is exempt from taxation under Section  
308 501(c)(3) or (4) of the Internal Revenue Code and owns or operates  
309 a theatre facility that features plays and other theatrical  
310 performances and productions. Except as otherwise provided in  
311 subsection (5) of this section, the permit shall authorize the  
312 holder to sell alcoholic beverages, including native wines, to  
313 patrons of the theatre during performances and productions at the  
314 theatre facility for consumption during such performances and  
315 productions on the premises of the facility described in the  
316 permit. A temporary theatre permit holder shall obtain all  
317 alcoholic beverages from package retailers located in the county  
318 in which the permit is issued. Alcoholic beverages remaining in  
319 stock upon expiration of the temporary theatre permit may be  
320 returned by the permittee to the package retailer for a refund of  
321 the purchase price upon consent of the package retailer or may be  
322 kept by the permittee exclusively for personal use and  
323 consumption, subject to all laws pertaining to the illegal sale  
324 and possession of alcoholic beverages.



325           (p) **Charter ship operator's permit.** Subject to the  
326 provisions of this paragraph (p), a charter ship operator's permit  
327 shall authorize the holder thereof and its employees to serve,  
328 monitor, store and otherwise control the serving and availability  
329 of alcoholic beverages to customers of the permit holder during  
330 private charters under contract provided by the permit holder. A  
331 charter ship operator's permit shall authorize such action by the  
332 permit holder and its employees only as to alcoholic beverages  
333 brought onto the permit holder's ship by customers of the permit  
334 holder as part of such a private charter. All such alcoholic  
335 beverages must be removed from the charter ship at the conclusion  
336 of each private charter. A charter ship operator's permit shall  
337 not authorize the permit holder to sell, charge for or otherwise  
338 supply alcoholic beverages to customers, except as authorized in  
339 this paragraph (p). For the purposes of this paragraph (p),  
340 "charter ship operator" means a common carrier that (i) is  
341 certified to carry at least one hundred fifty (150) passengers  
342 and/or provide overnight accommodations for at least fifty (50)  
343 passengers, (ii) operates only in the waters within the State of  
344 Mississippi, which lie adjacent to the State of Mississippi south  
345 of the three (3) most southern counties in the State of  
346 Mississippi, and (iii) provides charters under contract for tours  
347 and trips in such waters.



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

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

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

368 The distance restrictions imposed in this subsection shall  
369 not apply to the sale or storage of alcoholic beverages at a bed  
370 and breakfast inn listed in the National Register of Historic  
371 Places or to the sale or storage of alcoholic beverages in a  
372 historic district that is listed in the National Register of



373 Historic Places, is a qualified resort area and is located in a  
374 municipality having a population greater than one hundred thousand  
375 (100,000) according to the latest federal decennial census.

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

385 (5) (a) In addition to any other authority granted under  
386 this section, the holder of a permit issued under subsection  
387 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may  
388 sell or otherwise provide alcoholic beverages and/or wine to a  
389 patron of the permit holder in the manner authorized in the permit  
390 and the patron may remove an open glass, cup or other container of  
391 the alcoholic beverage and/or wine from the licensed premises and  
392 may possess and consume the alcoholic beverage or wine outside of  
393 the licensed premises if: (i) the licensed premises is located  
394 within a leisure and recreation district created under Section  
395 67-1-101 and (ii) the patron remains within the boundaries of the  
396 leisure and recreation district while in possession of the  
397 alcoholic beverage or wine.





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

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

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



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

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

