

By: Representative Dixon

To: Ways and Means

HOUSE BILL NO. 1076

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 TO INCLUDE THE
 4 SECOND JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI; TO AMEND
 5 SECTION 67-1-16, MISSISSIPPI CODE OF 1972, TO REQUIRE AN ELECTION
 6 TO BE HELD IN SUCH AREA BEFORE THE AREA MAY BE DESIGNATED A
 7 QUALIFIED RESORT AREA; AND FOR RELATED PURPOSES.

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

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

11 67-1-5. For the purposes of this chapter and unless
 12 otherwise required by the context:

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



21 beer is legally manufactured in this state for sale in another
22 state.

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

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

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

35 (e) "Person" means and includes any individual,
36 partnership, corporation, association or other legal entity
37 whatsoever.

38 (f) "Manufacturer" means any person engaged in
39 manufacturing, distilling, rectifying, blending or bottling any
40 alcoholic beverage.

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



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

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

55 (j) "Division" means the Alcoholic Beverage Control
56 Division of the Department of Revenue.

57 (k) "Municipality" means any incorporated city or town
58 of this state.

59 (l) "Hotel" means an establishment within a
60 municipality, or within a qualified resort area approved as such
61 by the department, where, in consideration of payment, food and
62 lodging are habitually furnished to travelers and wherein are
63 located at least twenty (20) adequately furnished and completely
64 separate sleeping rooms with adequate facilities that persons
65 usually apply for and receive as overnight accommodations. Hotels
66 in towns or cities of more than twenty-five thousand (25,000)
67 population are similarly defined except that they must have fifty
68 (50) or more sleeping rooms. Any such establishment described in
69 this paragraph with less than fifty (50) beds shall operate one or



70 more regular dining rooms designed to be constantly frequented by
71 customers each day. When used in this chapter, the word "hotel"
72 shall also be construed to include any establishment that meets
73 the definition of "bed and breakfast inn" as provided in this
74 section.

75 (m) "Restaurant" means:

76 (i) A place which is regularly and in a bona fide
77 manner used and kept open for the serving of meals to guests for
78 compensation, which has suitable seating facilities for guests,
79 and which has suitable kitchen facilities connected therewith for
80 cooking an assortment of foods and meals commonly ordered at
81 various hours of the day; the service of such food as sandwiches
82 and salads only shall not be deemed in compliance with this
83 requirement. Except as otherwise provided in this paragraph, no
84 place shall qualify as a restaurant under this chapter unless
85 twenty-five percent (25%) or more of the revenue derived from such
86 place shall be from the preparation, cooking and serving of meals
87 and not from the sale of beverages, or unless the value of food
88 given to and consumed by customers is equal to twenty-five percent
89 (25%) or more of total revenue; or

90 (ii) Any privately owned business located in a
91 building in a historic district where the district is listed in
92 the National Register of Historic Places, where the building has a
93 total occupancy rating of not less than one thousand (1,000) and
94 where the business regularly utilizes ten thousand (10,000) square



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

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

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

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

114 (iii) Maintained by its members through the
115 payment of annual dues;

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



120 (v) The affairs and management of which are
121 conducted by a board of directors, board of governors, executive
122 committee, or similar governing body chosen by the members at a
123 regular meeting held at some periodic interval; and

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

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

142 (o) "Qualified resort area" means any area or locality
143 outside of the limits of incorporated municipalities in this state
144 commonly known and accepted as a place which regularly and



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

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

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

167 (iii) The term includes:

168 1. The clubhouses associated with the state
169 park golf courses at the Lefleur's Bluff State Park, the John Kyle



170 State Park, the Percy Quin State Park and the Hugh White State
171 Park;

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

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

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

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

193 6. Any municipality with a population in
194 excess of ten thousand (10,000) according to the latest federal



195 decennial census that is located in a county that is bordered by
196 the Pearl River and is not traversed by Interstate Highway 20,
197 with a population in excess of forty-five thousand (45,000)
198 according to the latest federal decennial census; however, the
199 governing authorities of such a municipality may by ordinance:

200 a. Specify the hours of operation of
201 facilities that offer alcoholic beverages for sale;

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

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

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

210 8. Land that is located in any county in
211 which Mississippi Highway 43 and Mississippi Highway 25 intersect
212 and:

213 a. Owned by the Pearl River Valley Water
214 Supply District, and/or

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



220 9. Any facility located on property that is a
221 game reserve with restricted access that consists of at least
222 eight hundred (800) contiguous acres with no public roads, that
223 offers as a service hunts for a fee to overnight guests of the
224 facility, and has accommodations for at least fifty (50) overnight
225 guests;

226 10. Any facility that:

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

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

234 c. Provides lodging accommodations
235 regardless of whether part of the facility and/or located adjacent
236 to or in close proximity to the facility, and

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

239 11. Any facility and related property:

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



245 b. Used for the purpose of providing
246 meals and hosting events, and

247 c. Used for the purpose of teaching
248 culinary arts courses and/or turf management and grounds keeping
249 courses, and/or outdoor recreation and leadership courses;

250 12. Any facility and related property that:

251 a. Consist of at least eight thousand
252 (8,000) square feet being heated and cooled,

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

254 c. Is located on property on or near a
255 bayou or other waterway,

256 d. Is used for the purpose of culinary
257 arts courses, and/or outdoor recreation and leadership courses;

258 13. The clubhouse and associated golf course

259 where the golf course is adjacent to one or more residential

260 developments and the golf course and all such developments

261 collectively include at least two hundred (200) acres and at least

262 one hundred fifty (150) residential units and are located a. in a

263 county that has voted against coming out from under the dry law;

264 and b. outside of but in close proximity to a municipality in such

265 county which has voted under Section 67-1-14, after January 1,

266 2013, to come out from under the dry law * * *;

267 14. The Second Judicial District of Hinds

268 County, Mississippi.



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

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

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

289 (r) "Bed and breakfast inn" means an establishment
290 within a municipality where in consideration of payment, breakfast
291 and lodging are habitually furnished to travelers and wherein are
292 located not less than eight (8) and not more than nineteen (19)
293 adequately furnished and completely separate sleeping rooms with



294 adequate facilities, that persons usually apply for and receive as
295 overnight accommodations; however, such restriction on the minimum
296 number of sleeping rooms shall not apply to establishments on the
297 National Register of Historic Places. No place shall qualify as a
298 bed and breakfast inn under this chapter unless on the date of the
299 initial application for a license under this chapter more than
300 fifty percent (50%) of the sleeping rooms are located in a
301 structure formerly used as a residence.

302 (s) "Board" shall refer to the Board of Tax Appeals of
303 the State of Mississippi.

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

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

313 (v) "Cooking school" means an establishment within a
314 municipality or qualified resort area and owned by a nationally
315 recognized company that offers an established culinary education
316 curriculum and program where, in consideration of payment, patrons
317 are given scheduled professional group instruction on culinary
318 techniques. For purposes of this paragraph, the definition of



319 cooking school shall not include schools or classes offered by
320 grocery stores, convenience stores or drugstores.

321 **SECTION 2.** Section 67-1-16, Mississippi Code of 1972, is
322 amended as follows:

323 67-1-16. (1) (a) Before an area may be designated by the
324 governing authorities of a municipality as an area in which
325 facilities which are defined as qualified resort areas in Section
326 67-1-5(o)(iii)5 may be located, an election shall be held, under
327 the election laws applicable to the municipality, on the question
328 of whether qualified resort areas shall be allowed in the
329 municipality. An election to determine whether qualified resort
330 areas shall be allowed in the municipality shall be ordered by the
331 municipal governing authorities, upon presentation to the
332 governing authorities of a petition containing the names of at
333 least twenty percent (20%) of the duly qualified voters of the
334 municipality asking for the election. An election on the question
335 may not be held by the municipality more often than once each
336 year.

337 (b) Thirty (30) days' notice shall be given to the
338 qualified electors of the municipality, in the manner prescribed
339 by law, on the question of allowing qualified resort areas to be
340 established. The notice shall contain a statement of the question
341 to be voted on at the election. The ballots used in the election
342 shall have the following words printed thereon: "FOR THE
343 ESTABLISHMENT OF QUALIFIED RESORT AREAS," and next below, "AGAINST



344 THE ESTABLISHMENT OF QUALIFIED RESORT AREAS." In marking his
345 ballot, the voter shall make a cross (X) opposite the words of his
346 choice.

347 (c) Qualified resort areas may be established if a
348 majority of the qualified electors voting in the election vote for
349 such establishment. A qualified resort area may not be
350 established if a majority of the qualified electors voting in the
351 election vote against such establishment.

352 (2) (a) Before a municipality may be designated as a
353 qualified resort area as defined in Section 67-1-5(o)(iii)6, an
354 election shall be held, under the election laws applicable to the
355 municipality, on the question of whether the municipality shall be
356 a qualified resort area. An election to determine whether the
357 municipality shall be a qualified resort area shall be ordered by
358 the municipal governing authorities, upon presentation to the
359 governing authorities of a petition containing the names of at
360 least twenty percent (20%) of the duly qualified voters of the
361 municipality asking for the election. An election on the question
362 may not be held by the municipality more often than once each
363 year.

364 (b) Thirty (30) days' notice shall be given to the
365 qualified electors of the municipality, in the manner prescribed
366 by law, on the question of allowing qualified resort areas to be
367 established. The notice shall contain a statement of the question
368 to be voted on at the election. The ballots used in the election



369 shall have the following words printed thereon: "FOR THE
370 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
371 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
372 marking his ballot, the voter shall make a cross (X) opposite the
373 words of his choice.

374 (c) The municipality may be established as a qualified
375 resort area if a majority of the qualified electors voting in the
376 election vote for such establishment. A qualified resort area may
377 not be established if a majority of the qualified electors voting
378 in the election vote against such establishment.

379 (3) (a) Before an area may be designated a qualified resort
380 area as defined in Section 67-1-5(o)(iii)7, an election shall be
381 held in the municipality in which the area is located under the
382 election laws applicable to the municipality, on the question of
383 whether the area shall be a qualified resort area. An election to
384 determine whether the area shall be a qualified resort area shall
385 be ordered by the municipal governing authorities, upon
386 presentation to the governing authorities of a petition containing
387 the names of at least twenty percent (20%) of the duly qualified
388 voters of the municipality asking for the election. An election
389 on the question may not be held by the municipality more often
390 than once each year.

391 (b) Thirty (30) days' notice shall be given to the
392 qualified electors of the municipality, in the manner prescribed
393 by law, on the question of allowing qualified resort areas to be



394 established. The notice shall contain a statement of the question
395 to be voted on at the election. The ballots used in the election
396 shall have the following words printed thereon: "FOR THE
397 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
398 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
399 marking his ballot, the voter shall make a cross (X) opposite the
400 words of his choice.

401 (c) The area may be established as a qualified resort
402 area if a majority of the qualified electors voting in the
403 election vote for such establishment. A qualified resort area may
404 not be established if a majority of the qualified electors voting
405 in the election vote against such establishment.

406 (4) (a) Before an area may be designated a qualified resort
407 area as defined in Section 67-1-5(o)(iii)8, an election shall be
408 held in the area described in Section 67-1-5(o)(iii)8 under the
409 election laws applicable to counties, on the question of whether
410 the area shall be a qualified resort area. An election to
411 determine whether the area shall be a qualified resort area shall
412 be ordered by the board of supervisors, upon presentation to the
413 board of a petition containing the names of at least twenty
414 percent (20%) of the duly qualified voters of the area described
415 in Section 67-1-5(o)(iii)8 asking for the election. An election
416 on the question may not be held by the county more often than once
417 each year.



418 (b) Thirty (30) days' notice shall be given to the
419 qualified electors of the area, in the manner prescribed by law,
420 on the question of allowing qualified resort areas to be
421 established. The notice shall contain a statement of the question
422 to be voted on at the election. The ballots used in the election
423 shall have the following words printed thereon: "FOR THE
424 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
425 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
426 marking his ballot, the voter shall make a cross (X) opposite the
427 words of his choice.

428 (c) The area may be established as a qualified resort
429 area if a majority of the qualified electors voting in the
430 election vote for such establishment. A qualified resort area may
431 not be established if a majority of the qualified electors voting
432 in the election vote against such establishment.

433 (5) (a) Before an area may be designated a qualified resort
434 area as defined in Section 67-1-5(o)(iii)14, an election shall be
435 held in the area described in Section 67-1-5(o)(iii)14 under the
436 election laws applicable to counties, on the question of whether
437 the area shall be a qualified resort area. An election to
438 determine whether the area shall be a qualified resort area shall
439 be ordered by the board of supervisors. An election on the
440 question may not be held by the county more often than once each
441 year.



442 (b) Thirty (30) days' notice shall be given to the
443 qualified electors of the area, in the manner prescribed by law,
444 on the question of allowing qualified resort area to be
445 established. The notice shall contain a statement of the question
446 to be voted on at the election. The ballots used in the election
447 shall have the following words printed thereon: "FOR THE
448 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
449 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
450 marking his ballot, the voter shall make a cross (X) opposite the
451 words of his choice.

452 (c) The area may be established as a qualified resort
453 area if a majority of the qualified electors voting in the
454 election vote for such establishment. A qualified resort area may
455 not be established if a majority of the qualified electors voting
456 in the election vote against such establishment.

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

