

By: Representative Dixon

To: Ways and Means

HOUSE BILL NO. 1077

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 ANY
 4 MUNICIPALITY WITH A POPULATION OF LESS THAN 1,500 ACCORDING TO THE
 5 MOST RECENT FEDERAL DECENNIAL CENSUS AND WHICH IS LOCATED IN A
 6 COUNTY TRAVERSED BY INTERSTATE 55 AND INTERSTATE 20 AND A JUDICIAL
 7 DISTRICT THAT HAS NOT VOTED TO COME OUT FROM UNDER THE DRY LAW; TO
 8 AMEND SECTION 67-1-16, MISSISSIPPI CODE OF 1972, TO REQUIRE AN
 9 ELECTION TO BE HELD IN SUCH A MUNICIPALITY BEFORE THE MUNICIPALITY
 10 MAY BE DESIGNATED A QUALIFIED RESORT AREA; AND FOR RELATED
 11 PURPOSES.

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

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

15 67-1-5. For the purposes of this chapter and unless
 16 otherwise required by the context:

17 (a) "Alcoholic beverage" means any alcoholic liquid,
 18 including wines of more than five percent (5%) of alcohol by
 19 weight, capable of being consumed as a beverage by a human being,
 20 but shall not include light wine and beer, as defined in Section
 21 67-3-3, Mississippi Code of 1972, but shall include native wines.
 22 The words "alcoholic beverage" shall not include ethyl alcohol



23 manufactured or distilled solely for fuel purposes or beer of an
24 alcoholic content of more than eight percent (8%) by weight if the
25 beer is legally manufactured in this state for sale in another
26 state.

27 (b) "Alcohol" means the product of distillation of any
28 fermented liquid, whatever the origin thereof, and includes
29 synthetic ethyl alcohol, but does not include denatured alcohol or
30 wood alcohol.

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

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

39 (e) "Person" means and includes any individual,
40 partnership, corporation, association or other legal entity
41 whatsoever.

42 (f) "Manufacturer" means any person engaged in
43 manufacturing, distilling, rectifying, blending or bottling any
44 alcoholic beverage.

45 (g) "Wholesaler" means any person, other than a
46 manufacturer, engaged in distributing or selling any alcoholic



47 beverage at wholesale for delivery within or without this state
48 when such sale is for the purpose of resale by the purchaser.

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

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

59 (j) "Division" means the Alcoholic Beverage Control
60 Division of the Department of Revenue.

61 (k) "Municipality" means any incorporated city or town
62 of this state.

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



72 (50) or more sleeping rooms. Any such establishment described in
73 this paragraph with less than fifty (50) beds shall operate one or
74 more regular dining rooms designed to be constantly frequented by
75 customers each day. When used in this chapter, the word "hotel"
76 shall also be construed to include any establishment that meets
77 the definition of "bed and breakfast inn" as provided in this
78 section.

79 (m) "Restaurant" means:

80 (i) A place which is regularly and in a bona fide
81 manner used and kept open for the serving of meals to guests for
82 compensation, which has suitable seating facilities for guests,
83 and which has suitable kitchen facilities connected therewith for
84 cooking an assortment of foods and meals commonly ordered at
85 various hours of the day; the service of such food as sandwiches
86 and salads only shall not be deemed in compliance with this
87 requirement. Except as otherwise provided in this paragraph, no
88 place shall qualify as a restaurant under this chapter unless
89 twenty-five percent (25%) or more of the revenue derived from such
90 place shall be from the preparation, cooking and serving of meals
91 and not from the sale of beverages, or unless the value of food
92 given to and consumed by customers is equal to twenty-five percent
93 (25%) or more of total revenue; or

94 (ii) Any privately owned business located in a
95 building in a historic district where the district is listed in
96 the National Register of Historic Places, where the building has a



97 total occupancy rating of not less than one thousand (1,000) and
98 where the business regularly utilizes ten thousand (10,000) square
99 feet or more in the building for live entertainment, including not
100 only the stage, lobby or area where the audience sits and/or
101 stands, but also any other portion of the building necessary for
102 the operation of the business, including any kitchen area, bar
103 area, storage area and office space, but excluding any area for
104 parking. In addition to the other requirements of this
105 subparagraph, the business must also serve food to guests for
106 compensation within the building and derive the majority of its
107 revenue from event-related fees, including, but not limited to,
108 admission fees or ticket sales to live entertainment in the
109 building, and from the rental of all or part of the facilities of
110 the business in the building to another party for a specific event
111 or function.

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

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

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

118 (iii) Maintained by its members through the
119 payment of annual dues;

120 (iv) Owning, hiring or leasing a building or space
121 in a building of such extent and character as may be suitable and



122 adequate for the reasonable and comfortable use and accommodation
123 of its members and their guests;

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

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

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



146 (o) "Qualified resort area" means any area or locality
147 outside of the limits of incorporated municipalities in this state
148 commonly known and accepted as a place which regularly and
149 customarily attracts tourists, vacationists and other transients
150 because of its historical, scenic or recreational facilities or
151 attractions, or because of other attributes which regularly and
152 customarily appeal to and attract tourists, vacationists and other
153 transients in substantial numbers; however, no area or locality
154 shall so qualify as a resort area until it has been duly and
155 properly approved as such by the department.

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

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



171 (iii) The term includes:

172 1. The clubhouses associated with the state
173 park golf courses at the Lefleur's Bluff State Park, the John Kyle
174 State Park, the Percy Quin State Park and the Hugh White State
175 Park;

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

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

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

190 5. Any facility that is located in a
191 municipality that is bordered by the Pearl River, traversed by
192 Mississippi Highway 25, adjacent to the boundaries of the Jackson
193 International Airport and is located in a county which has voted
194 against coming out from under the dry law; however, any such



195 facility may only be located in areas designated by the governing
196 authorities of such municipality;

197 6. Any municipality with a population in
198 excess of ten thousand (10,000) according to the latest federal
199 decennial census that is located in a county that is bordered by
200 the Pearl River and is not traversed by Interstate Highway 20,
201 with a population in excess of forty-five thousand (45,000)
202 according to the latest federal decennial census; however, the
203 governing authorities of such a municipality may by ordinance:

204 a. Specify the hours of operation of
205 facilities that offer alcoholic beverages for sale;

206 b. Specify the percentage of revenue
207 that facilities that offer alcoholic beverages for sale must
208 derive from the preparation, cooking and serving of meals and not
209 from the sale of beverages;

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

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

214 8. Land that is located in any county in
215 which Mississippi Highway 43 and Mississippi Highway 25 intersect
216 and:

217 a. Owned by the Pearl River Valley Water
218 Supply District, and/or



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

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

230 10. Any facility that:

231 a. Consists of at least six thousand
232 (6,000) square feet being heated and cooled along with an
233 additional adjacent area that consists of at least two thousand
234 two hundred (2,200) square feet regardless of whether heated and
235 cooled,

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

238 c. Provides lodging accommodations
239 regardless of whether part of the facility and/or located adjacent
240 to or in close proximity to the facility, and

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

243 11. Any facility and related property:



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

249 b. Used for the purpose of providing
250 meals and hosting events, and

251 c. Used for the purpose of teaching
252 culinary arts courses and/or turf management and grounds keeping
253 courses, and/or outdoor recreation and leadership courses;

254 12. Any facility and related property that:

255 a. Consist of at least eight thousand
256 (8,000) square feet being heated and cooled,

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

258 c. Is located on property on or near a
259 bayou or other waterway,

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

262 13. The clubhouse and associated golf course
263 where the golf course is adjacent to one or more residential
264 developments and the golf course and all such developments
265 collectively include at least two hundred (200) acres and at least
266 one hundred fifty (150) residential units and are located a. in a
267 county that has voted against coming out from under the dry law;
268 and b. outside of but in close proximity to a municipality in such



269 county which has voted under Section 67-1-14, after January 1,
270 2013, to come out from under the dry law * * *;

271 14. Any municipality with a population of
272 less than one thousand five hundred (1,500) according to the most
273 recent federal decennial census and which is located in:

274 a. A county traversed by Interstate 55
275 and Interstate 20, and

276 b. A judicial district that has not
277 voted to come out from under the dry law.

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

282 (p) "Native wine" means any product, produced in
283 Mississippi for sale, having an alcohol content not to exceed
284 twenty-one percent (21%) by weight and made in accordance with
285 revenue laws of the United States, which shall be obtained
286 primarily from the alcoholic fermentation of the juice of ripe
287 grapes, fruits, berries or vegetables grown and produced in
288 Mississippi; provided that bulk, concentrated or fortified wines
289 used for blending may be produced without this state and used in
290 producing native wines. The department shall adopt and promulgate
291 rules and regulations to permit a producer to import such bulk
292 and/or fortified wines into this state for use in blending with



293 native wines without payment of any excise tax that would
294 otherwise accrue thereon.

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

298 (r) "Bed and breakfast inn" means an establishment
299 within a municipality where in consideration of payment, breakfast
300 and lodging are habitually furnished to travelers and wherein are
301 located not less than eight (8) and not more than nineteen (19)
302 adequately furnished and completely separate sleeping rooms with
303 adequate facilities, that persons usually apply for and receive as
304 overnight accommodations; however, such restriction on the minimum
305 number of sleeping rooms shall not apply to establishments on the
306 National Register of Historic Places. No place shall qualify as a
307 bed and breakfast inn under this chapter unless on the date of the
308 initial application for a license under this chapter more than
309 fifty percent (50%) of the sleeping rooms are located in a
310 structure formerly used as a residence.

311 (s) "Board" shall refer to the Board of Tax Appeals of
312 the State of Mississippi.

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



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

322 (v) "Cooking school" means an establishment within a
323 municipality or qualified resort area and owned by a nationally
324 recognized company that offers an established culinary education
325 curriculum and program where, in consideration of payment, patrons
326 are given scheduled professional group instruction on culinary
327 techniques. For purposes of this paragraph, the definition of
328 cooking school shall not include schools or classes offered by
329 grocery stores, convenience stores or drugstores.

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

332 67-1-16. (1) (a) Before an area may be designated by the
333 governing authorities of a municipality as an area in which
334 facilities which are defined as qualified resort areas in Section
335 67-1-5(o)(iii)5 may be located, an election shall be held, under
336 the election laws applicable to the municipality, on the question
337 of whether qualified resort areas shall be allowed in the
338 municipality. An election to determine whether qualified resort
339 areas shall be allowed in the municipality shall be ordered by the
340 municipal governing authorities, upon presentation to the
341 governing authorities of a petition containing the names of at
342 least twenty percent (20%) of the duly qualified voters of the



343 municipality asking for the election. An election on the question
344 may not be held by the municipality more often than once each
345 year.

346 (b) Thirty (30) days' notice shall be given to the
347 qualified electors of the municipality, in the manner prescribed
348 by law, on the question of allowing qualified resort areas to be
349 established. The notice shall contain a statement of the question
350 to be voted on at the election. The ballots used in the election
351 shall have the following words printed thereon: "FOR THE
352 ESTABLISHMENT OF QUALIFIED RESORT AREAS," and next below, "AGAINST
353 THE ESTABLISHMENT OF QUALIFIED RESORT AREAS." In marking his
354 ballot, the voter shall make a cross (X) opposite the words of his
355 choice.

356 (c) Qualified resort areas may be established if a
357 majority of the qualified electors voting in the election vote for
358 such establishment. A qualified resort area may not be
359 established if a majority of the qualified electors voting in the
360 election vote against such establishment.

361 (2) (a) Before a municipality may be designated as a
362 qualified resort area as defined in Section 67-1-5(o)(iii)6, an
363 election shall be held, under the election laws applicable to the
364 municipality, on the question of whether the municipality shall be
365 a qualified resort area. An election to determine whether the
366 municipality shall be a qualified resort area shall be ordered by
367 the municipal governing authorities, upon presentation to the



368 governing authorities of a petition containing the names of at
369 least twenty percent (20%) of the duly qualified voters of the
370 municipality asking for the election. An election on the question
371 may not be held by the municipality more often than once each
372 year.

373 (b) Thirty (30) days' notice shall be given to the
374 qualified electors of the municipality, in the manner prescribed
375 by law, on the question of allowing qualified resort areas to be
376 established. The notice shall contain a statement of the question
377 to be voted on at the election. The ballots used in the election
378 shall have the following words printed thereon: "FOR THE
379 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
380 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
381 marking his ballot, the voter shall make a cross (X) opposite the
382 words of his choice.

383 (c) The municipality may be established as a qualified
384 resort area if a majority of the qualified electors voting in the
385 election vote for such establishment. A qualified resort area may
386 not be established if a majority of the qualified electors voting
387 in the election vote against such establishment.

388 (3) (a) Before an area may be designated a qualified resort
389 area as defined in Section 67-1-5(o)(iii)7, an election shall be
390 held in the municipality in which the area is located under the
391 election laws applicable to the municipality, on the question of
392 whether the area shall be a qualified resort area. An election to



393 determine whether the area shall be a qualified resort area shall
394 be ordered by the municipal governing authorities, upon
395 presentation to the governing authorities of a petition containing
396 the names of at least twenty percent (20%) of the duly qualified
397 voters of the municipality asking for the election. An election
398 on the question may not be held by the municipality more often
399 than once each year.

400 (b) Thirty (30) days' notice shall be given to the
401 qualified electors of the municipality, in the manner prescribed
402 by law, on the question of allowing qualified resort areas to be
403 established. The notice shall contain a statement of the question
404 to be voted on at the election. The ballots used in the election
405 shall have the following words printed thereon: "FOR THE
406 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
407 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
408 marking his ballot, the voter shall make a cross (X) opposite the
409 words of his choice.

410 (c) The area may be established as a qualified resort
411 area if a majority of the qualified electors voting in the
412 election vote for such establishment. A qualified resort area may
413 not be established if a majority of the qualified electors voting
414 in the election vote against such establishment.

415 (4) (a) Before an area may be designated a qualified resort
416 area as defined in Section 67-1-5(o)(iii)8, an election shall be
417 held in the area described in Section 67-1-5(o)(iii)8 under the



418 election laws applicable to counties, on the question of whether
419 the area shall be a qualified resort area. An election to
420 determine whether the area shall be a qualified resort area shall
421 be ordered by the board of supervisors, upon presentation to the
422 board of a petition containing the names of at least twenty
423 percent (20%) of the duly qualified voters of the area described
424 in Section 67-1-5(o)(iii)8 asking for the election. An election
425 on the question may not be held by the county more often than once
426 each year.

427 (b) Thirty (30) days' notice shall be given to the
428 qualified electors of the area, in the manner prescribed by law,
429 on the question of allowing qualified resort areas to be
430 established. The notice shall contain a statement of the question
431 to be voted on at the election. The ballots used in the election
432 shall have the following words printed thereon: "FOR THE
433 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
434 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
435 marking his ballot, the voter shall make a cross (X) opposite the
436 words of his choice.

437 (c) The area may be established as a qualified resort
438 area if a majority of the qualified electors voting in the
439 election vote for such establishment. A qualified resort area may
440 not be established if a majority of the qualified electors voting
441 in the election vote against such establishment.



442 (5) (a) Before a municipality may be designated as a
443 qualified resort area as defined in Section 67-1-5(o)(iii)14, an
444 election shall be held, under the election laws applicable to the
445 municipality, on the question of whether the municipality shall be
446 a qualified resort area. An election to determine whether the
447 municipality shall be a qualified resort area shall be ordered by
448 the municipal governing authorities. An election on the question
449 may not be held by the municipality more often than once each
450 year.

451 (b) Thirty (30) days' notice shall be given to the
452 qualified electors of the municipality, in the manner prescribed
453 by law, on the question of allowing qualified resort areas to be
454 established. The notice shall contain a statement of the question
455 to be voted on at the election. The ballots used in the election
456 shall have the following words printed thereon: "FOR THE
457 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
458 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
459 marking his ballot, the voter shall make a cross (X) opposite the
460 words of his choice.

461 (c) The municipality may be established as a qualified
462 resort area if a majority of the qualified electors voting in the
463 election vote for such establishment. A qualified resort area may
464 not be established if a majority of the qualified electors voting
465 in the election vote against such establishment.



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

