

By: Representative Powell

To: Ways and Means

HOUSE BILL NO. 1240

1 AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE NUMBER OF PACKAGE RETAILER'S PERMITS THAT MAY BE
3 OWNED BY A PERSON OR IN WHICH A PERSON MAY HAVE A CONTROLLING
4 INTEREST FROM ONE TO THREE; AND FOR RELATED PURPOSES.

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

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

8 67-1-51. (1) Permits which may be issued by the department
9 shall be as follows:

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

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

17 Class 1. Distiller's and/or rectifier's permit, which shall
18 authorize the holder thereof to operate a distillery for the
19 production of distilled spirits by distillation or redistillation



20 and/or to operate a rectifying plant for the purifying, refining,
21 mixing, blending, flavoring or reducing in proof of distilled
22 spirits and alcohol.

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

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

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



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

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



70 sale of such alcoholic beverages shall not be permitted while such
71 vehicle is stopped in a county that has not legalized such sales.

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

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

93 (f) **Temporary retailer's permit.** Except as otherwise
94 provided in subsection (5) of this section, a temporary retailer's



95 permit shall permit the purchase and resale of alcoholic
96 beverages, including native wines, during legal hours on the
97 premises described in the temporary permit only.

98 Temporary retailer's permits shall be of the following
99 classes:

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



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

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

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

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



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



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



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

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

216 (i) **Alcohol processing permit.** An alcohol processing
217 permit shall authorize the holder thereof to purchase, transport
218 and possess alcoholic beverages for the exclusive use in cooking,



219 processing or manufacturing products which contain alcoholic
220 beverages as an integral ingredient. An alcohol processing permit
221 shall not authorize the sale of alcoholic beverages on the
222 premises of the person engaging in the business of cooking,
223 processing or manufacturing products which contain alcoholic
224 beverages. The amounts of alcoholic beverages allowed under an
225 alcohol processing permit shall be set by the department.

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

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

238 (l) **Merchant permit.** Except as otherwise provided in
239 subsection (5) of this section, a merchant permit shall be issued
240 only to the owner of a spa facility, an art studio or gallery, or
241 a cooking school, and shall authorize the holder to serve
242 complimentary by the glass wine only, including native wine, at
243 the holder's spa facility, art studio or gallery, or cooking



244 school. A merchant permit holder shall obtain all wine from the
245 holder of a package retailer's permit.

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

264 (n) **Event venue retailer's permit.** An event venue
265 retailer's permit shall authorize the holder thereof to purchase
266 and resell alcoholic beverages, including native wines, for
267 consumption on the premises during legal hours during events held
268 on the licensed premises if food is being served at the event by a



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

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



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

304 (p) **Charter ship operator's permit.** Subject to the
305 provisions of this paragraph (p), a charter ship operator's permit
306 shall authorize the holder thereof and its employees to serve,
307 monitor, store and otherwise control the serving and availability
308 of alcoholic beverages to customers of the permit holder during
309 private charters under contract provided by the permit holder. A
310 charter ship operator's permit shall authorize such action by the
311 permit holder and its employees only as to alcoholic beverages
312 brought onto the permit holder's ship by customers of the permit
313 holder as part of such a private charter. All such alcoholic
314 beverages must be removed from the charter ship at the conclusion
315 of each private charter. A charter ship operator's permit shall
316 not authorize the permit holder to sell, charge for or otherwise
317 supply alcoholic beverages to customers, except as authorized in
318 this paragraph (p). For the purposes of this paragraph (p),



319 "charter ship operator" means a common carrier that (i) is
320 certified to carry at least one hundred fifty (150) passengers
321 and/or provide overnight accommodations for at least fifty (50)
322 passengers, (ii) operates only in the waters within the State of
323 Mississippi, which lie adjacent to the State of Mississippi south
324 of the three (3) most southern counties in the State of
325 Mississippi, and (iii) provides charters under contract for tours
326 and trips in such waters.

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

330 (3) Except as otherwise provided in this subsection, no
331 authority shall be granted to any person to manufacture, sell or
332 store for sale any intoxicating liquor as specified in this
333 chapter within four hundred (400) feet of any church, school,
334 kindergarten or funeral home. However, within an area zoned
335 commercial or business, such minimum distance shall be not less
336 than one hundred (100) feet.

337 A church or funeral home may waive the distance restrictions
338 imposed in this subsection in favor of allowing issuance by the
339 department of a permit, pursuant to subsection (1) of this
340 section, to authorize activity relating to the manufacturing, sale
341 or storage of alcoholic beverages which would otherwise be
342 prohibited under the minimum distance criterion. Such waiver
343 shall be in written form from the owner, the governing body, or



344 the appropriate officer of the church or funeral home having the
345 authority to execute such a waiver, and the waiver shall be filed
346 with and verified by the department before becoming effective.

347 The distance restrictions imposed in this subsection shall
348 not apply to the sale or storage of alcoholic beverages at a bed
349 and breakfast inn listed in the National Register of Historic
350 Places or to the sale or storage of alcoholic beverages in a
351 historic district that is listed in the National Register of
352 Historic Places, is a qualified resort area and is located in a
353 municipality having a population greater than one hundred thousand
354 (100,000) according to the latest federal decennial census.

355 (4) No person, either individually or as a member of a firm,
356 partnership, limited liability company or association, or as a
357 stockholder, officer or director in a corporation, shall own or
358 control any interest in more than * * * three (3) package
359 retailer's * * * permits, nor shall such person's spouse, if
360 living in the same household of such person, any relative of such
361 person, if living in the same household of such person, or any
362 other person living in the same household with such person own any
363 interest in any other package retailer's permit which, when
364 combined with the number of package retailer's permits owned by
365 the person or in which the person has a controlling interest,
366 would total more than three (3) package retailer's permits.

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



369 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
370 sell or otherwise provide alcoholic beverages and/or wine to a
371 patron of the permit holder in the manner authorized in the permit
372 and the patron may remove an open glass, cup or other container of
373 the alcoholic beverage and/or wine from the licensed premises and
374 may possess and consume the alcoholic beverage or wine outside of
375 the licensed premises if: (i) the licensed premises is located
376 within a leisure and recreation district created under Section
377 67-1-101 and (ii) the patron remains within the boundaries of the
378 leisure and recreation district while in possession of the
379 alcoholic beverage or wine.

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

384 **SECTION 2.** This act shall take effect and be in force from
385 and after July 1, 2018.

