

By: Senator(s) Doty

To: Tourism

SENATE BILL NO. 2173

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; AND FOR RELATED  
4 PURPOSES.

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

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

8 67-1-5. For the purposes of this chapter and unless  
9 otherwise required by the context:

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



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

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

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

32 (e) "Person" means and includes any individual,  
33 partnership, corporation, association or other legal entity  
34 whatsoever.

35 (f) "Manufacturer" means any person engaged in  
36 manufacturing, distilling, rectifying, blending or bottling any  
37 alcoholic beverage.

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

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



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

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

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

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets



the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means:

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

(ii) Any privately owned business located in a building in a historic district where the district is listed in the National Register of Historic Places, where the building has a total occupancy rating of not less than one thousand (1,000) and where the business regularly utilizes ten thousand (10,000) square feet or more in the building for live entertainment, including not only the stage, lobby or area where the audience sits and/or stands, but also any other portion of the building necessary for



the operation of the business, including any kitchen area, bar area, storage area and office space, but excluding any area for parking. In addition to the other requirements of this subparagraph, the business must also serve food to guests for compensation within the building and derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales to live entertainment in the building, and from the rental of all or part of the facilities of the business in the building to another party for a specific event or function.

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

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

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

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

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

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive



committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

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

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

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or



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

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

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

164 (iii) The term includes:

165 1. The clubhouses associated with the state  
166 park golf courses at the Lefleur's Bluff State Park, the John Kyle  
167 State Park, the Percy Quin State Park and the Hugh White State  
168 Park;



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

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

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

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

190                   6. Any municipality with a population in  
191 excess of ten thousand (10,000) according to the latest federal  
192 decennial census that is located in a county that is bordered by  
193 the Pearl River and is not traversed by Interstate Highway 20,





with a population in excess of forty-five thousand (45,000) according to the latest federal decennial census; however, the governing authorities of such a municipality may by ordinance:

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

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

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

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

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

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

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

9. Any facility located on property that is a game reserve with restricted access that consists of at least



eight hundred (800) contiguous acres with no public roads, that offers as a service hunts for a fee to overnight guests of the facility, and has accommodations for at least fifty (50) overnight guests;

10. Any facility that:

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

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

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

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

11. Any facility and related property:

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

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



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

12. Any facility and related property that:

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

b. For a fee is used to host events,

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

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

13. The clubhouse and associated golf course  
where the golf course is adjacent to one or more residential  
developments and the golf course and all such developments  
collectively include at least two hundred (200) acres and at least  
one hundred fifty (150) residential units and are located a. in a  
county that has voted against coming out from under the dry law;  
and b. outside of but in close proximity to a municipality in such  
county which has voted under Section 67-1-14, after January 1,  
2013, to come out from under the dry law \* \* \*;

14. The clubhouse and associated  
eighteen-hole golf course and tennis facilities located in a  
municipality traversed by Interstate Highway 55 and U.S. Highway  
51 that has voted to come out from under the dry law.



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

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

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

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



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

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

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

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

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



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

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

