

By: Senator(s) Doty

To: Tourism

SENATE BILL NO. 2618
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE DEPARTMENT OF REVENUE MAY NOT APPROVE AN AREA AS
3 A QUALIFIED RESORT AREA AFTER JULY 1, 2018, IF ANY PORTION OF SUCH
4 PROPOSED AREA IS LOCATED WITHIN A CERTAIN DISTANCE OF CONVENTS OR
5 MONASTERIES LOCATED IN CERTAIN COUNTIES; TO REVISE THE DEFINITION
6 OF THE TERM "QUALIFIED RESORT AREA" AND TO DEFINE THE TERM
7 "CAMPUS" UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW;
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 67-1-5, Mississippi Code of 1972, as
11 amended by Senate Bill No. 415, 2018 Regular Session, is amended
12 as follows:

13 67-1-5. For the purposes of this chapter and unless
14 otherwise required by the context:

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

20 The words "alcoholic beverage" shall not include ethyl alcohol
21 manufactured or distilled solely for fuel purposes or beer of an



22 alcoholic content of more than eight percent (8%) by weight if the
23 beer is legally manufactured in this state for sale in another
24 state.

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

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

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

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

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

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



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

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

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

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

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



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

77 (m) "Restaurant" means:

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

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



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

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

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

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

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

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



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

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

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

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



147 customarily attracts tourists, vacationists and other transients
148 because of its historical, scenic or recreational facilities or
149 attractions, or because of other attributes which regularly and
150 customarily appeal to and attract tourists, vacationists and other
151 transients in substantial numbers; however, no area or locality
152 shall so qualify as a resort area until it has been duly and
153 properly approved as such by the department. The department may
154 not approve an area as a qualified resort area after July 1, 2018,
155 if any portion of such proposed area is located within two (2)
156 miles of a convent or monastery that is located in a county
157 traversed by Interstate 55 and U.S. Highway 98. A convent or
158 monastery may waive such distance restrictions in favor of
159 allowing approval by the department of an area as a qualified
160 resort area. Such waiver shall be in written form from the owner,
161 the governing body, or the appropriate officer of the convent or
162 monastery having the authority to execute such a waiver, and the
163 waiver shall be filed with and verified by the department before
164 becoming effective.

165 (i) The department may approve an area or locality
166 outside of the limits of an incorporated municipality that is in
167 the process of being developed as a qualified resort area if such
168 area or locality, when developed, can reasonably be expected to
169 meet the requisites of the definition of the term "qualified
170 resort area." In such a case, the status of qualified resort area
171 shall not take effect until completion of the development.



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

180 (iii) The term includes:

181 1. The clubhouses associated with the state
182 park golf courses at the Lefleur's Bluff State Park, the John Kyle
183 State Park, the Percy Quin State Park and the Hugh White State
184 Park;

185 2. The clubhouse and associated golf course
186 where the golf course is adjacent to one or more planned
187 residential developments and the golf course and all such
188 developments collectively include at least seven hundred fifty
189 (750) acres and at least four hundred (400) residential units;

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

195 4. Any facility located on federal property
196 surrounding a lake and designated as a recreational area by the



197 United States Army Corps of Engineers that consists of at least
198 one thousand five hundred (1,500) acres;

199 5. Any facility that is located in a
200 municipality that is bordered by the Pearl River, traversed by
201 Mississippi Highway 25, adjacent to the boundaries of the Jackson
202 International Airport and is located in a county which has voted
203 against coming out from under the dry law; however, any such
204 facility may only be located in areas designated by the governing
205 authorities of such municipality;

206 6. Any municipality with a population in
207 excess of ten thousand (10,000) according to the latest federal
208 decennial census that is located in a county that is bordered by
209 the Pearl River and is not traversed by Interstate Highway 20,
210 with a population in excess of forty-five thousand (45,000)
211 according to the latest federal decennial census; however, the
212 governing authorities of such a municipality may by ordinance:

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

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

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



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

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

226 * * *A. Owned by the Pearl River
227 Valley Water Supply District, and/or

228 * * *B. Located within the
229 Reservoir Community District, zoned commercial, east of Old Fannin
230 Road, north of Regatta Drive, south of Spillway Road, west of Hugh
231 Ward Boulevard and accessible by Old Fannin Road, Spillway Road,
232 Spann Drive and/or Lake Vista Place * * *, and/or

233 C. Located within the Reservoir
234 Community District, zoned commercial, west of Old Fannin Road,
235 south of Spillway Road and extending to the boundary of the
236 corporate limits of the City of Flowood, Mississippi;

237 b. The board of supervisors of such
238 county, with respect to B and C of this item 8, may by resolution
239 or other order:

240 A. Specify the hours of operation
241 of facilities that offer alcoholic beverages for sale,

242 B. Specify the percentage of
243 revenue that facilities that offer alcoholic beverages for sale
244 must derive from the preparation, cooking and serving of meals and
245 not from the sale of beverages, and



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

248 9. Any facility located on property that is a
249 game reserve with restricted access that consists of at least
250 eight hundred (800) contiguous acres with no public roads, that
251 offers as a service hunts for a fee to overnight guests of the
252 facility, and has accommodations for at least fifty (50) overnight
253 guests;

254 10. Any facility that:

255 a. Consists of at least six thousand
256 (6,000) square feet being heated and cooled along with an
257 additional adjacent area that consists of at least two thousand
258 two hundred (2,200) square feet regardless of whether heated and
259 cooled,

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

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

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

267 11. Any facility and related property:

268 a. Located on property that consists of
269 at least one hundred twenty-five (125) contiguous acres and
270 consisting of an eighteen (18) hole golf course, and/or located in



271 a facility that consists of at least eight thousand (8,000) square
272 feet being heated and cooled,

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

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

278 12. Any facility and related property that:

279 a. Consist of at least eight thousand
280 (8,000) square feet being heated and cooled,

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

282 * * *

283 * * *c. Is used for the purpose of
284 culinary arts courses, and/or outdoor recreation and leadership
285 courses;

286 13. The clubhouse and associated golf course
287 where the golf course is adjacent to one or more residential
288 developments and the golf course and all such developments
289 collectively include at least two hundred (200) acres and at least
290 one hundred fifty (150) residential units and are located a. in a
291 county that has voted against coming out from under the dry law;
292 and b. outside of but in close proximity to a municipality in such
293 county which has voted under Section 67-1-14, after January 1,
294 2013, to come out from under the dry law;



295 14. The clubhouse and associated eighteen
296 (18) hole golf course located in a municipality traversed by
297 Interstate Highway 55 and U.S. Highway 51 that has voted to come
298 out from under the dry law * * *;

299 15. Land that is planned for mixed use
300 development and consists of at least two hundred (200) contiguous
301 acres with one or more planned residential developments
302 collectively planned to include at least two hundred (200)
303 residential units when completed and which land is located:

304 a. In a county that has voted to come
305 out from under the dry law,

306 b. Outside the corporate limits of any
307 municipality in such county and adjacent to or in close proximity
308 to a golf course located in a municipality in such county, and

309 c. Within one (1) mile of a state
310 institution of higher learning.

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

315 (p) "Native wine" means any product, produced in
316 Mississippi for sale, having an alcohol content not to exceed
317 twenty-one percent (21%) by weight and made in accordance with
318 revenue laws of the United States, which shall be obtained
319 primarily from the alcoholic fermentation of the juice of ripe



320 grapes, fruits, berries or vegetables grown and produced in
321 Mississippi; provided that bulk, concentrated or fortified wines
322 used for blending may be produced without this state and used in
323 producing native wines. The department shall adopt and promulgate
324 rules and regulations to permit a producer to import such bulk
325 and/or fortified wines into this state for use in blending with
326 native wines without payment of any excise tax that would
327 otherwise accrue thereon.

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

331 (r) "Bed and breakfast inn" means an establishment
332 within a municipality where in consideration of payment, breakfast
333 and lodging are habitually furnished to travelers and wherein are
334 located not less than eight (8) and not more than nineteen (19)
335 adequately furnished and completely separate sleeping rooms with
336 adequate facilities, that persons usually apply for and receive as
337 overnight accommodations; however, such restriction on the minimum
338 number of sleeping rooms shall not apply to establishments on the
339 National Register of Historic Places. No place shall qualify as a
340 bed and breakfast inn under this chapter unless on the date of the
341 initial application for a license under this chapter more than
342 fifty percent (50%) of the sleeping rooms are located in a
343 structure formerly used as a residence.



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

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

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

355 (v) "Cooking school" means an establishment within a
356 municipality or qualified resort area and owned by a nationally
357 recognized company that offers an established culinary education
358 curriculum and program where, in consideration of payment, patrons
359 are given scheduled professional group instruction on culinary
360 techniques. For purposes of this paragraph, the definition of
361 cooking school shall not include schools or classes offered by
362 grocery stores, convenience stores or drugstores.

363 (w) "Campus" means property owned by a public school
364 district, community or junior college, college or university in
365 this state where educational courses are taught, school functions
366 are held, tests and examinations are administered or academic
367 course credits are awarded; however, the term shall not include
368 any "restaurant" or "hotel" that is located on property owned by a



369 community or junior college, college or university in this state,
370 and is operated by a third party who receives all revenue
371 generated from food and alcoholic beverage sales.

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

