

By: Representative Powell

To: Ways and Means

HOUSE BILL NO. 4

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 products 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 If an on-premises retailer's permit is applied for by a common
73 carrier operating solely in the water, such common carrier must,
74 along with all other qualifications for a permit, (i) be certified
75 to carry at least one hundred fifty (150) passengers and/or
76 provide overnight accommodations for at least fifty (50)
77 passengers and (ii) operate primarily in the waters within the
78 State of Mississippi which lie adjacent to the State of
79 Mississippi south of the three (3) most southern counties in the
80 State of Mississippi and/or on the Mississippi River or navigable
81 waters within any county bordering on the Mississippi River.

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



95 (e) **Native wine retailer's permit.** Except as otherwise
96 provided in subsection (5) of this section, a native wine
97 retailer's permit shall be issued only to a holder of a Class 3
98 manufacturer's permit, and shall authorize the holder thereof to
99 make retail sales of native wines to consumers for on-premises
100 consumption or to consumers in originally sealed and unopened
101 containers at an establishment located on the premises of or in
102 the immediate vicinity of a native winery.

103 (f) **Temporary retailer's permit.** Except as otherwise
104 provided in subsection (5) of this section, a temporary retailer's
105 permit shall permit the purchase and resale of alcoholic
106 beverages, including native wines, during legal hours on the
107 premises described in the temporary permit only.

108 Temporary retailer's permits shall be of the following
109 classes:

110 Class 1. A temporary one-day permit may be issued to bona
111 fide nonprofit civic or charitable organizations authorizing the
112 sale of alcoholic beverages, including native wine, for
113 consumption on the premises described in the temporary permit
114 only. Class 1 permits may be issued only to applicants
115 demonstrating to the department, by a statement signed under
116 penalty of perjury submitted ten (10) days prior to the proposed
117 date or such other time as the department may determine, that they
118 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
119 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.



120 Class 1 permittees shall obtain all alcoholic beverages from
121 package retailers located in the county in which the temporary
122 permit is issued. Alcoholic beverages remaining in stock upon
123 expiration of the temporary permit may be returned by the
124 permittee to the package retailer for a refund of the purchase
125 price upon consent of the package retailer or may be kept by the
126 permittee exclusively for personal use and consumption, subject to
127 all laws pertaining to the illegal sale and possession of
128 alcoholic beverages. The department, following 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. A temporary permit, not to exceed seventy (70)
132 days, may be issued to prospective permittees seeking to transfer
133 a permit authorized in paragraph (c) of this subsection. A Class
134 2 permit may be issued only to applicants demonstrating to the
135 department, by a statement signed under the penalty of perjury,
136 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
137 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
138 67-1-59. The department, following a preliminary review of the
139 statement provided by the applicant and the requirements of the
140 applicable statutes and regulations, may issue the permit.

141 Class 2 temporary permittees must purchase their alcoholic
142 beverages directly from the department or, with approval of the
143 department, purchase the remaining stock of the previous
144 permittee. If the proposed applicant of a Class 1 or Class 2



145 temporary permit falsifies information contained in the
146 application or statement, the applicant shall never again be
147 eligible for a retail alcohol beverage permit and shall be subject
148 to prosecution for perjury.

149 Class 3. A temporary one-day permit may be issued to a
150 retail establishment authorizing the complimentary distribution of
151 wine, including native wine, to patrons of the retail
152 establishment at an open house or promotional event, for
153 consumption only on the premises described in the temporary
154 permit. A Class 3 permit may be issued only to an applicant
155 demonstrating to the department, by a statement signed under
156 penalty of perjury submitted ten (10) days before the proposed
157 date or such other time as the department may determine, that it
158 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
159 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
160 A Class 3 permit holder shall obtain all alcoholic beverages from
161 the holder(s) of a package retailer's permit located in the county
162 in which the temporary permit is issued. Wine remaining in stock
163 upon expiration of the temporary permit may be returned by the
164 Class 3 temporary permit holder to the package retailer for a
165 refund of the purchase price, with consent of the package
166 retailer, or may be kept by the Class 3 temporary permit holder
167 exclusively for personal use and consumption, subject to all laws
168 pertaining to the illegal sale and possession of alcoholic
169 beverages. The department, following review of the statement



170 provided by the applicant and the requirements of the applicable
171 statutes and regulations, may issue the permit. No retailer may
172 receive more than twelve (12) Class 3 temporary permits in a
173 calendar year. A Class 3 temporary permit shall not be issued to
174 a retail establishment that either holds a merchant permit issued
175 under paragraph (1) of this subsection, or holds a permit issued
176 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
177 the holder to engage in the business of a retailer of light wine
178 or beer.

179 (g) **Caterer's permit.** A caterer's permit shall permit
180 the purchase of alcoholic beverages by a person engaging in
181 business as a caterer and the resale of alcoholic beverages by
182 such person in conjunction with such catering business. No person
183 shall qualify as a caterer unless forty percent (40%) or more of
184 the revenue derived from such catering business shall be from the
185 serving of prepared food and not from the sale of alcoholic
186 beverages and unless such person has obtained a permit for such
187 business from the Department of Health. A caterer's permit shall
188 not authorize the sale of alcoholic beverages on the premises of
189 the person engaging in business as a caterer; however, the holder
190 of an on-premises retailer's permit may hold a caterer's permit.
191 When the holder of an on-premises retailer's permit or an
192 affiliated entity of the holder also holds a caterer's permit, the
193 caterer's permit shall not authorize the service of alcoholic
194 beverages on a consistent, recurring basis at a separate, fixed



195 location owned or operated by the caterer, on-premises retailer or
196 affiliated entity and an on-premises retailer's permit shall be
197 required for the separate location. All sales of alcoholic
198 beverages by holders of a caterer's permit shall be made at the
199 location being catered by the caterer, and, except as otherwise
200 provided in subsection (5) of this section, such sales may be made
201 only for consumption at the catered location. The location being
202 catered may be anywhere within a county or judicial district that
203 has voted to come out from under the dry laws or in which the
204 sale, distribution and possession of alcoholic beverages is
205 otherwise authorized by law. Such sales shall be made pursuant to
206 any other conditions and restrictions which apply to sales made by
207 on-premises retail permittees. The holder of a caterer's permit
208 or his employees shall remain at the catered location as long as
209 alcoholic beverages are being sold pursuant to the permit issued
210 under this paragraph (g), and the permittee shall have at the
211 location the identification card issued by the Alcoholic Beverage
212 Control Division of the department. No unsold alcoholic beverages
213 may be left at the catered location by the permittee upon the
214 conclusion of his business at that location. Appropriate law
215 enforcement officers and Alcoholic Beverage Control Division
216 personnel may enter a catered location on private property in
217 order to enforce laws governing the sale or serving of alcoholic
218 beverages.



219 (h) **Research permit.** A research permit shall authorize
220 the holder thereof to operate a research facility for the
221 professional research of alcoholic beverages. Such permit shall
222 authorize the holder of the permit to import and purchase limited
223 amounts of alcoholic beverages from the department or from
224 importers, wineries and distillers of alcoholic beverages for
225 professional research.

226 (i) **Alcohol processing permit.** An alcohol processing
227 permit shall authorize the holder thereof to purchase, transport
228 and possess alcoholic beverages for the exclusive use in cooking,
229 processing or manufacturing products which contain alcoholic
230 beverages as an integral ingredient. An alcohol processing permit
231 shall not authorize the sale of alcoholic beverages on the
232 premises of the person engaging in the business of cooking,
233 processing or manufacturing products which contain alcoholic
234 beverages. The amounts of alcoholic beverages allowed under an
235 alcohol processing permit shall be set by the department.

236 (j) **Hospitality cart permit.** A hospitality cart permit
237 shall authorize the sale of alcoholic beverages from a mobile cart
238 on a golf course that is the holder of an on-premises retailer's
239 permit. The alcoholic beverages sold from the cart must be
240 consumed within the boundaries of the golf course.

241 (k) **Special service permit.** A special service permit
242 shall authorize the holder to sell commercially sealed alcoholic
243 beverages to the operator of a commercial or private aircraft for



244 en route consumption only by passengers. A special service permit
245 shall be issued only to a fixed-base operator who contracts with
246 an airport facility to provide fueling and other associated
247 services to commercial and private aircraft.

248 (1) **Merchant permit.** Except as otherwise provided in
249 subsection (5) of this section, a merchant permit shall be issued
250 only to the owner of a spa facility, an art studio or gallery, or
251 a cooking school, and shall authorize the holder to serve
252 complimentary by the glass wine only, including native wine, at
253 the holder's spa facility, art studio or gallery, or cooking
254 school. A merchant permit holder shall obtain all wine from the
255 holder of a package retailer's permit.

256 (m) **Temporary alcoholic beverages charitable auction**
257 **permit.** A temporary permit, not to exceed five (5) days, may be
258 issued to a qualifying charitable nonprofit organization that is
259 exempt from taxation under Section 501(c)(3) or (4) of the
260 Internal Revenue Code of 1986. The permit shall authorize the
261 holder to sell alcoholic beverages for the limited purpose of
262 raising funds for the organization during a live or silent auction
263 that is conducted by the organization and that meets the following
264 requirements: (i) the auction is conducted in an area of the
265 state where the sale of alcoholic beverages is authorized; (ii) if
266 the auction is conducted on the premises of an on-premises
267 retailer's permit holder, then the alcoholic beverages to be
268 auctioned must be stored separately from the alcoholic beverages



269 sold, stored or served on the premises, must be removed from the
270 premises immediately following the auction, and may not be
271 consumed on the premises; (iii) the permit holder may not conduct
272 more than two (2) auctions during a calendar year; (iv) the permit
273 holder may not pay a commission or promotional fee to any person
274 to arrange or conduct the auction.

275 (n) **Event venue retailer's permit.** An event venue
276 retailer's permit shall authorize the holder thereof to purchase
277 and resell alcoholic beverages, including native wines, for
278 consumption on the premises during legal hours during events held
279 on the licensed premises if food is being served at the event by a
280 caterer who is not affiliated with or related to the permittee.
281 The caterer must serve at least three (3) entrees. The permit may
282 only be issued for venues that can accommodate two hundred (200)
283 persons or more. The number of persons a venue may accommodate
284 shall be determined by the local fire department and such
285 determination shall be provided in writing and submitted along
286 with all other documents required to be provided for an
287 on-premises retailer's permit. The permittee must derive the
288 majority of its revenue from event-related fees, including, but
289 not limited to, admission fees or ticket sales for live
290 entertainment in the building. "Event-related fees" do not
291 include alcohol, beer or light wine sales or any fee which may be
292 construed to cover the cost of alcohol, beer or light wine. This



293 determination shall be made on a per event basis. An event may
294 not last longer than two (2) consecutive days per week.

295 (o) **Temporary theatre permit.** A temporary theatre
296 permit, not to exceed five (5) days, may be issued to a charitable
297 nonprofit organization that is exempt from taxation under Section
298 501(c)(3) or (4) of the Internal Revenue Code and owns or operates
299 a theatre facility that features plays and other theatrical
300 performances and productions. Except as otherwise provided in
301 subsection (5) of this section, the permit shall authorize the
302 holder to sell alcoholic beverages, including native wines, to
303 patrons of the theatre during performances and productions at the
304 theatre facility for consumption during such performances and
305 productions on the premises of the facility described in the
306 permit. A temporary theatre permit holder shall obtain all
307 alcoholic beverages from package retailers located in the county
308 in which the permit is issued. Alcoholic beverages remaining in
309 stock upon expiration of the temporary theatre permit may be
310 returned by the permittee to the package retailer for a refund of
311 the purchase price upon consent of the package retailer or may be
312 kept by the permittee exclusively for personal use and
313 consumption, subject to all laws pertaining to the illegal sale
314 and possession of alcoholic beverages.

315 (p) **Charter ship operator's permit.** Subject to the
316 provisions of this paragraph (p), a charter ship operator's permit
317 shall authorize the holder thereof and its employees to serve,



318 monitor, store and otherwise control the serving and availability
319 of alcoholic beverages to customers of the permit holder during
320 private charters under contract provided by the permit holder. A
321 charter ship operator's permit shall authorize such action by the
322 permit holder and its employees only as to alcoholic beverages
323 brought onto the permit holder's ship by customers of the permit
324 holder as part of such a private charter. All such alcoholic
325 beverages must be removed from the charter ship at the conclusion
326 of each private charter. A charter ship operator's permit shall
327 not authorize the permit holder to sell, charge for or otherwise
328 supply alcoholic beverages to customers, except as authorized in
329 this paragraph (p). For the purposes of this paragraph (p),
330 "charter ship operator" means a common carrier that (i) is
331 certified to carry at least one hundred fifty (150) passengers
332 and/or provide overnight accommodations for at least fifty (50)
333 passengers, (ii) operates only in the waters within the State of
334 Mississippi, which lie adjacent to the State of Mississippi south
335 of the three (3) most southern counties in the State of
336 Mississippi, and (iii) provides charters under contract for tours
337 and trips in such waters.

338 (q) **Distillery retailer's permit.** The holder of a
339 Class 1 manufacturer's permit may obtain a distillery retailer's
340 permit. A distillery retailer's permit shall authorize the holder
341 thereof to sell at retail alcoholic beverages by the sealed and
342 unopened bottle from a retail location at the distillery for



343 off-premises consumption. The holder may only sell product
344 manufactured by the manufacturer at the distillery described in
345 the permit. The holder shall not sell at retail more than ten
346 percent (10%) of the alcoholic beverages produced annually at its
347 distillery. The holder shall not make retail sales of more than
348 two and twenty-five one-hundredths (2.25) liters, in the
349 aggregate, of the alcoholic beverages produced at its distillery
350 to any one (1) individual for consumption off the premises of the
351 distillery within a twenty-four-hour period. The hours of sale
352 shall be the same as those hours for package retailers under this
353 chapter. The holder of a distillery retailer's permit is not
354 required to purchase the alcoholic beverages authorized to be sold
355 by this paragraph from the department's liquor distribution
356 warehouse; however, if the holder does not purchase the alcoholic
357 beverages from the department's liquor distribution warehouse, the
358 holder shall pay to the department all taxes, fees and surcharges
359 on the alcoholic beverages that are imposed upon the sale of
360 alcoholic beverages shipped by the Alcoholic Beverage Control
361 Division of the Department of Revenue. In addition to alcoholic
362 beverages, the holder of a distillery retailer's permit may sell
363 at retail promotional products from the same retail location,
364 including shirts, hats, glasses, and other promotional products
365 customarily sold by alcoholic beverage manufacturers.



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

369 (3) Except as otherwise provided in this subsection, no
370 authority shall be granted to any person to manufacture, sell or
371 store for sale any intoxicating liquor as specified in this
372 chapter within four hundred (400) feet of any church, school,
373 kindergarten or funeral home. However, within an area zoned
374 commercial or business, such minimum distance shall be not less
375 than one hundred (100) feet.

376 A church or funeral home may waive the distance restrictions
377 imposed in this subsection in favor of allowing issuance by the
378 department of a permit, pursuant to subsection (1) of this
379 section, to authorize activity relating to the manufacturing, sale
380 or storage of alcoholic beverages which would otherwise be
381 prohibited under the minimum distance criterion. Such waiver
382 shall be in written form from the owner, the governing body, or
383 the appropriate officer of the church or funeral home having the
384 authority to execute such a waiver, and the waiver shall be filed
385 with and verified by the department before becoming effective.

386 The distance restrictions imposed in this subsection shall
387 not apply to the sale or storage of alcoholic beverages at a bed
388 and breakfast inn listed in the National Register of Historic
389 Places or to the sale or storage of alcoholic beverages in a
390 historic district that is listed in the National Register of



391 Historic Places, is a qualified resort area and is located in a
392 municipality having a population greater than one hundred thousand
393 (100,000) according to the latest federal decennial census.

394 (4) No person, either individually or as a member of a firm,
395 partnership, limited liability company or association, or as a
396 stockholder, officer or director in a corporation, shall own or
397 control any interest in more than * * * three (3) package
398 retailer's permits, nor shall such person's spouse, if living in
399 the same household of such person, any relative of such person, if
400 living in the same household of such person, or any other person
401 living in the same household with such person own any interest in
402 any other package retailer's permit which, when combined with the
403 number of package retailer's permits owned by the person or in
404 which the person has a controlling interest, would total more than
405 three (3) package retailer's permits.

406 (5) (a) In addition to any other authority granted under
407 this section, the holder of a permit issued under subsection
408 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
409 sell or otherwise provide alcoholic beverages and/or wine to a
410 patron of the permit holder in the manner authorized in the permit
411 and the patron may remove an open glass, cup or other container of
412 the alcoholic beverage and/or wine from the licensed premises and
413 may possess and consume the alcoholic beverage or wine outside of
414 the licensed premises if: (i) the licensed premises is located
415 within a leisure and recreation district created under Section



416 67-1-101 and (ii) the patron remains within the boundaries of the
417 leisure and recreation district while in possession of the
418 alcoholic beverage or wine.

419 (b) Nothing in this subsection shall be construed to
420 allow a person to bring any alcoholic beverages into a permitted
421 premises except to the extent otherwise authorized by this
422 chapter.

423 **SECTION 2.** This act shall take effect and be in force from
424 and after July 1, 2020.

