

By: Representative Busby

To: Ways and Means

HOUSE BILL NO. 988

1 AN ACT TO AUTHORIZE A PERSON WHO IS THE HOLDER OF A WINE
2 MANUFACTURER'S PERMIT IN THIS STATE, OR WHO IS LICENSED OR
3 PERMITTED OUTSIDE OF THE STATE TO ENGAGE IN THE ACTIVITY OF
4 MANUFACTURING, SUPPLYING, IMPORTING, DISTRIBUTING, WHOLESALING OR
5 RETAILING WINE, TO SELL AND SHIP WINE DIRECTLY TO RESIDENTS IN
6 THIS STATE, IF THE PERSON OBTAINS A DIRECT WINE SHIPPER'S PERMIT
7 FROM THE DEPARTMENT OF REVENUE; TO PROVIDE FOR THE ISSUANCE OF
8 DIRECT WINE SHIPPER'S PERMITS; TO REQUIRE THE HOLDER OF A DIRECT
9 WINE SHIPPER'S PERMIT TO KEEP CERTAIN RECORDS; TO PROHIBIT THE
10 HOLDER OF A DIRECT WINE SHIPPER'S PERMIT FROM SELLING OR SHIPPING
11 LIGHT WINE OR BEER OR ANY ALCOHOLIC BEVERAGE OTHER THAN WINE; TO
12 LIMIT THE AMOUNT OF WINE THAT A HOLDER OF A DIRECT WINE SHIPPER'S
13 PERMIT MAY SELL OR SHIP TO AN INDIVIDUAL EACH YEAR; TO PROVIDE FOR
14 THE ANNUAL RENEWAL OF DIRECT WINE SHIPPER'S PERMITS; TO PROVIDE
15 THAT PERSONS PURCHASING OR RECEIVING A DIRECT SHIPMENT OF WINE
16 FROM A DIRECT WINE SHIPPER MUST BE AT LEAST TWENTY-ONE YEARS OF
17 AGE; TO PROVIDE THAT PERSONS RECEIVING A DIRECT SHIPMENT OF WINE
18 FROM A DIRECT WINE SHIPPER SHALL USE THE WINE FOR PERSONAL
19 CONSUMPTION ONLY AND MAY NOT RESELL IT; TO AUTHORIZE THE
20 COMMISSIONER OF REVENUE TO ADOPT ANY RULES OR REGULATIONS AS
21 NECESSARY TO CARRY OUT THIS ACT; TO PROVIDE PENALTIES FOR
22 VIOLATIONS OF THIS ACT; TO AMEND SECTIONS 27-71-5, 27-71-7,
23 27-71-15 AND 27-71-29, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
24 PRIVILEGE TAX REQUIRED FOR THE ISSUANCE OF A DIRECT WINE SHIPPER'S
25 PERMIT; TO LEVY A TAX UPON THE SALES AND SHIPMENTS OF WINE MADE BY
26 A DIRECT WINE SHIPPER; TO REQUIRE A CERTAIN AMOUNT OF THE TAXES
27 LEVIED TO BE DEPOSITED INTO THE MENTAL HEALTH PROGRAMS FUND; TO
28 AMEND SECTIONS 67-1-41, 67-1-45, 67-1-53, 67-1-55, 67-1-57,
29 67-1-73, 97-31-47 AND 97-31-49, MISSISSIPPI CODE OF 1972, IN
30 CONFORMITY TO THE FOREGOING PROVISIONS OF THIS ACT; TO AMEND
31 SECTION 67-1-51, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
32 FOREGOING PROVISIONS OF THIS ACT AND TO INCREASE THE NUMBER OF
33 PACKAGE RETAILER'S PERMITS THAT MAY BE OWNED BY A PERSON OR IN
34 WHICH A PERSON MAY HAVE A CONTROLLING INTEREST FROM ONE TO THREE;



35 TO PROVIDE THAT A HOLDER OF A PACKAGE RETAILER'S PERMIT MAY SELL
36 AT RETAIL THROUGH THE INTERNET AND SHIP WINE IN ORIGINAL SEALED
37 AND UNOPENED PACKAGES TO RESIDENTS IN THIS STATE; TO PROVIDE THAT
38 A HOLDER OF A PACKAGE RETAILER'S PERMIT MAKING SALES OF WINE
39 THROUGH THE INTERNET MAY NOT SELL OR SHIP ANY ALCOHOLIC BEVERAGE
40 OTHER THAN WINE OR SHIP WINE TO AN ADDRESS IN A COUNTY THAT HAS
41 NOT VOTED IN FAVOR OF COMING OUT FROM UNDER THE DRY LAW; TO AMEND
42 SECTION 67-1-83, MISSISSIPPI CODE OF 1972, TO DELETE THE
43 PROHIBITION AGAINST HOLDERS OF PACKAGE RETAILER'S PERMITS FROM
44 SELLING ALCOHOLIC BEVERAGES ON SUNDAY; TO BRING FORWARD SECTION
45 67-1-67, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE TRANSFER
46 OF PERMITS UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW,
47 FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

49 **SECTION 1.** As used in Sections 1 through 9 of this act, the
50 following words shall have the meanings as defined in this section
51 unless the context otherwise requires:

52 (a) "Department" means the Department of Revenue.

53 (b) "Direct wine shipper" means the holder of a direct
54 wine shipper's permit issued by the department under Sections 1
55 through 9 of this act.

56 (c) "Permit" means a direct wine shipper's permit
57 issued by the department under Sections 1 through 9 of this act.

58 (d) "Wine" means any product obtained from the
59 alcoholic fermentation of the juice of sound, ripe grapes, fruits
60 or berries, made in accordance with the revenue laws of the United
61 States, and containing more than five percent (5%) of alcohol by
62 weight.

63 In addition, the definitions in Section 67-1-5 shall be
64 applicable to the terms used in Sections 1 through 9 of this act
65 unless the context otherwise requires.



66 **SECTION 2.** A person must hold a permit as a direct wine
67 shipper issued by the department before the person may engage in
68 selling and shipping wine directly to a resident in this state. A
69 direct wine shipper may sell and ship wine directly to residents
70 in this state without being required to transact the sale and
71 shipment through the Alcoholic Beverage Control Division of the
72 department.

73 **SECTION 3.** To qualify for a permit, an applicant shall be:

74 (a) A holder of a Class 2 manufacturer's permit issued
75 in accordance with Section 67-1-51; or

76 (b) A person licensed or permitted outside of this
77 state to engage in the activity of manufacturing, supplying,
78 importing, distributing, wholesaling or retailing wine.

79 **SECTION 4.** (1) An applicant for a permit shall:

80 (a) Submit to the department a completed application on
81 a form provided by the department, containing all information that
82 is required by the department;

83 (b) Provide to the department a copy of the applicant's
84 current license or permit to engage in the activity of
85 manufacturing, supplying, importing, distributing, wholesaling or
86 retailing wine issued in this or any other state; and

87 (c) Pay to the department the tax prescribed in Section
88 27-71-5.

89 (2) After a person complies with the provisions of
90 subsection (1) of this section, the department may conduct any



91 investigation as it considers necessary regarding the issuance of
92 a permit, and the department shall issue a permit to the applicant
93 if the requirements of Sections 1 through 9 of this act are met.

94 **SECTION 5.** (1) A direct wine shipper shall:

95 (a) Ensure that all containers of wine sold and shipped
96 directly to a resident in this state are conspicuously labeled
97 with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21
98 YEARS OR OLDER REQUIRED FOR DELIVERY";

99 (b) Report to the department annually the total amount
100 of wine, by type, sold and shipped into or within the state the
101 preceding calendar year;

102 (c) Maintain for at least three (3) years all records
103 that allow the department to ascertain the truthfulness of the
104 information filed under Sections 1 through 9 of this act;

105 (d) Allow the department to perform an audit of the
106 direct wine shipper's records upon request; and

107 (e) Be deemed to have consented to the jurisdiction of
108 the department or any other state agency and the state courts
109 concerning enforcement of Sections 1 through 9 of this act and any
110 related laws, rules or regulations.

111 (2) A direct wine shipper may not:

112 (a) Sell or ship any light wine or beer that is
113 regulated under Section 67-3-1 et seq. or any alcoholic beverage
114 other than wine;



(b) Sell or ship more than twenty-four (24) nine-liter cases of wine annually to any one (1) individual; or

(c) Ship wine to an address in a county that has not voted in favor of coming out from under the dry law.

SECTION 6. A direct wine shipper may annually renew his or her permit, if the direct wine shipper:

(a) Is otherwise entitled to receive a permit;

(b) Provides to the department a copy of his or her current license or permit to engage in the activity of manufacturing, supplying, importing, distributing, wholesaling or retailing wine issued in this or any other state; and

(c) Pays to the department a renewal fee as prescribed in Section 27-71-5.

SECTION 7. (1) To purchase and receive a direct shipment of wine from a direct wine shipper, a resident of this state must be at least twenty-one (21) years of age, and a person who is at least twenty-one (21) years of age must sign for any wine shipped from a direct wine shipper.

(2) A shipment of wine may be ordered or purchased from a direct wine shipper through a computer network.

(3) A person who receives a direct shipment of wine from a direct wine shipper shall use the wine for personal consumption only and may not resell it.

SECTION 8. The Commissioner of Revenue of the department may adopt any rules or regulations as necessary to carry out Sections



1 through 9 of this act. All of the enforcement provisions of Section 67-1-1 et seq. that are not in conflict with Sections 1 through 9 of this act may be used by the department to enforce the provisions of Sections 1 through 9 of this act.

SECTION 9. (1) Any person who makes, participates in, transports, imports or receives a sale or shipment of wine in violation of Sections 1 through 9 of this act is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than six (6) months, or both. Each sale or shipment in violation of Sections 1 through 9 of this act shall constitute a separate offense.

(2) If any holder of a direct wine shipper's permit violates any provision of Sections 1 through 9 of this act, the department may suspend or revoke the permit and impose civil penalties as authorized under Section 67-1-1 et seq.

SECTION 10. Section 27-71-5, Mississippi Code of 1972, is amended as follows:

27-71-5. (1) Upon each person approved for a permit under the provisions of the Alcoholic Beverage Control Law and amendments thereto, there is levied and imposed for each location for the privilege of engaging and continuing in this state in the business authorized by such permit, an annual privilege license tax in the amount provided in the following schedule:



164 (a) Except as otherwise provided in this subsection
 165 (1), manufacturer's permit, Class 1, distiller's and/or
 166 rectifier's..... \$4,500.00
 167 (b) Manufacturer's permit, Class 2, wine
 168 Manufacturer..... \$1,800.00
 169 (c) Manufacturer's permit, Class 3, native wine
 170 manufacturer per ten thousand (10,000) gallons or part thereof
 171 produced..... \$ 10.00
 172 (d) Native wine retailer's permit..... \$ 50.00
 173 (e) Package retailer's permit, each..... \$ 900.00
 174 (f) On-premises retailer's permit, except for clubs and
 175 common carriers, each..... \$ 450.00
 176 (g) On-premises retailer's permit for wine of more than
 177 five percent (5%) alcohol by weight, but not more than twenty-one
 178 percent (21%) alcohol by weight, each..... \$ 225.00
 179 (h) On-premises retailer's permit for clubs..... \$ 225.00
 180 (i) On-premises retailer's permit for common carriers,
 181 per car, plane, or other vehicle..... \$ 120.00
 182 (j) Solicitor's permit, regardless of any other
 183 provision of law, solicitor's permits shall be issued only in the
 184 discretion of the department..... \$ 100.00
 185 (k) Filing fee for each application except for an
 186 employee identification card..... \$ 25.00
 187 (l) Temporary permit, Class 1, each..... \$ 10.00
 188 (m) Temporary permit, Class 2, each..... \$ 50.00



189	(n) (i) Caterer's permit.....	\$ 600.00
190	(ii) Caterer's permit for holders of on-premises	
191	retailer's permit.....	\$ 150.00
192	(o) Research permit.....	\$ 100.00
193	(p) Temporary permit, Class 3 (wine only).....	\$ 10.00
194	(q) Special service permit.....	\$ 225.00
195	(r) Merchant permit.....	\$ 225.00
196	(s) Temporary alcoholic beverages charitable auction	
197	permit.....	\$ 10.00
198	(t) Event venue retailer's permit.....	\$ 225.00
199	(u) Temporary theatre permit, each.....	\$ 10.00
200	(v) Charter ship operator's permit.....	\$ 100.00
201	(w) Distillery retailer's permit.....	\$ 450.00
202	<u>(x) Direct wine shipper's permit.....</u>	<u>\$ 100.00</u>

203 If a person approved for a manufacturer's permit, Class 1,
204 distiller's permit produces a product with at least fifty-one
205 percent (51%) of the finished product by volume being obtained
206 from alcoholic fermentation of grapes, fruits, berries, honey
207 and/or vegetables grown and produced in Mississippi, and produces
208 all of the product by using not more than one (1) still having a
209 maximum capacity of one hundred fifty (150) liters, the annual
210 privilege license tax for such a permit shall be Ten Dollars
211 (\$10.00) per ten thousand (10,000) gallons or part thereof
212 produced. Bulk, concentrated or fortified ingredients used for



blending may be produced outside this state and used in producing such a product.

In addition to the filing fee imposed by paragraph (k) of this subsection, a fee to be determined by the Department of Revenue may be charged to defray costs incurred to process applications. The additional fees shall be paid into the State Treasury to the credit of a special fund account, which is hereby created, and expenditures therefrom shall be made only to defray the costs incurred by the Department of Revenue in processing alcoholic beverage applications. Any unencumbered balance remaining in the special fund account on June 30 of any fiscal year shall lapse into the State General Fund.

All privilege taxes imposed by this section shall be paid in advance of doing business. The additional privilege tax imposed for an on-premises retailer's permit based upon purchases shall be due and payable on demand.

(2) (a) There is imposed and shall be collected from each permittee, except a common carrier, solicitor, holder of a direct wine shipper's permit or a temporary permittee, by the department, an additional license tax equal to the amounts imposed under subsection (1) of this section for the privilege of doing business within any municipality or county in which the licensee is located.

(b) (i) In addition to the tax imposed in paragraph (a) of this subsection, there is imposed and shall be collected by



the department from each permittee described in subsection (1)(f), (g), (h), (m) and (t) of this section, an additional license tax for the privilege of doing business within any municipality or county in which the licensee is located in the amount of Two Hundred Twenty-five Dollars (\$225.00) on purchases exceeding Five Thousand Dollars (\$5,000.00) and Two Hundred Twenty-five Dollars (\$225.00) for each additional purchase of Five Thousand Dollars (\$5,000.00), or fraction thereof.

(ii) In addition to the tax imposed in paragraph (a) of this subsection, there is imposed and shall be collected by the department from each permittee described in subsection (1)(n) and (r) of this section, an additional license tax for the privilege of doing business within any municipality or county in which the licensee is located in the amount of Two Hundred Fifty Dollars (\$250.00) on purchases exceeding Five Thousand Dollars (\$5,000.00) and Two Hundred Twenty-five Dollars (\$225.00) for each additional purchase of Five Thousand Dollars (\$5,000.00), or fraction thereof.

(iii) Any person who has paid the additional privilege license tax imposed by this paragraph, and whose permit is renewed, may add any unused fraction of Five Thousand Dollars (\$5,000.00) purchases to the first Five Thousand Dollars (\$5,000.00) purchases authorized by the renewal permit, and no additional license tax will be required until purchases exceed the sum of the two (2) figures.



(c) If the licensee is located within a municipality, the department shall pay the amount of additional license tax collected under this section to the municipality, and if outside a municipality the department shall pay the additional license tax to the county in which the licensee is located. Payments by the department to the respective local government subdivisions shall be made once each month for any collections during the preceding month.

(3) When an application for any permit, other than for renewal of a permit, has been rejected by the department, such decision shall be final. Appeal may be made in the manner provided by Section 67-1-39. Another application from an applicant who has been denied a permit shall not be reconsidered within a twelve-month period.

(4) The number of permits issued by the department shall not be restricted or limited on a population basis; however, the foregoing limitation shall not be construed to preclude the right of the department to refuse to issue a permit because of the undesirability of the proposed location.

(5) If any person shall engage or continue in any business which is taxable under this section without having paid the tax as provided in this section, the person shall be liable for the full amount of the tax plus a penalty thereon equal to the amount thereof, and, in addition, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the



288 county jail for a term of not more than six (6) months, or by both
289 such fine and imprisonment, in the discretion of the court.

290 (6) It shall be unlawful for any person to consume alcoholic
291 beverages on the premises of any hotel restaurant, restaurant,
292 club or the interior of any public place defined in Chapter 1,
293 Title 67, Mississippi Code of 1972, when the owner or manager
294 thereof displays in several conspicuous places inside the
295 establishment and at the entrances of establishment a sign
296 containing the following language: NO ALCOHOLIC BEVERAGES
297 ALLOWED.

298 **SECTION 11.** Section 27-71-7, Mississippi Code of 1972, is
299 amended as follows:

300 27-71-7. (1) There is hereby levied and assessed an excise
301 tax upon each case of alcoholic beverages sold by the * * *
302 department to be collected from each retail licensee at the time
303 of sale in accordance with the following schedule:

304 (a) Distilled spirits.....\$2.50 per gallon
305 (b) Sparkling wine and champagne.....\$1.00 per gallon
306 (c) Other wines, including native
307 wines.....\$.35 per gallon

308 (2) (a) In addition to the tax levied by subsection (1) of
309 this section, and in addition to any other markup collected, the
310 Alcoholic Beverage Control Division shall collect a markup of
311 three percent (3%) on all alcoholic beverages, as defined in
312 Section 67-1-5, Mississippi Code of 1972, which are sold by the



313 division. The proceeds of the markup shall be collected by the
314 division from each purchaser at the time of purchase.

315 (b) Until June 30, 1987, the revenue derived from this
316 three percent (3%) markup shall be deposited by the division in
317 the State Treasury to the credit of the "Alcoholism Treatment and
318 Rehabilitation Fund," a special fund which is hereby created in
319 the State Treasury, and shall be used by the Division of Alcohol
320 and Drug Abuse of the State Department of Mental Health and public
321 or private centers or organizations solely for funding of
322 treatment and rehabilitation programs for alcoholics and alcohol
323 abusers which are sponsored by the division or public or private
324 centers or organizations in such amounts as the Legislature may
325 appropriate to the division for use by the division or public or
326 private centers or organizations for such programs. Any tax
327 revenue in the fund which is not encumbered at the end of the
328 fiscal year shall lapse to the General Fund. It is the intent of
329 the Legislature that the State Department of Mental Health shall
330 continue to seek funds from other sources and shall use the funds
331 appropriated for the purposes of this section and Section 27-71-29
332 to match all federal funds which may be available for alcoholism
333 treatment and rehabilitation.

334 From and after July 1, 1987, the revenue derived from this
335 three percent (3%) markup shall be deposited by the division in
336 the State Treasury to the credit of the "Mental Health Programs
337 Fund," a special fund which is hereby created in the State



Treasury and shall be used by the State Department of Mental Health for the service programs of the department. Any revenue in the "Alcoholism Treatment and Rehabilitation Fund" which is not encumbered at the end of Fiscal Year 1987 shall be deposited to the credit of the "Mental Health Programs Fund."

(3) There is levied and assessed upon the holder of a direct wine shipper's permit, a tax in the amount of thirty-four percent (34%) of the sales price of each sale and shipment of wine made to a resident in this state. The holder of a direct wine shipper's permit shall file a monthly report with the department along with a copy of the invoice for each sale and shipment of wine and remit any taxes due; however, no report shall be required for months in which no sales or shipments were made into this state. The report, together with copies of the invoices and the payment of all taxes, shall be filed with the department not later than the twentieth day of the month following the month in which the shipment was made. Permittees who fail to timely file and pay taxes as required by this subsection shall pay a late fee in the amount of Fifty Dollars (\$50.00), in addition to any other penalty authorized by this article.

SECTION 12. Section 27-71-15, Mississippi Code of 1972, is amended as follows:

27-71-15. Except as otherwise provided in Section 67-9-1 for the transportation of limited amounts of alcoholic beverages for the use of an alcohol processing permittee, and in Sections 1



363 through 9 of this act for the sale and shipment of wine by the
364 holder of a direct wine shipper's permit, if transportation
365 requires passage through a county which has not authorized the
366 sale of alcoholic beverages, such transportation shall be by a
367 sealed vehicle. Such seal shall remain unbroken until the vehicle
368 shall reach the place of business operated by the permittee. The
369 operator of any vehicle transporting alcoholic beverages shall
370 have in his possession an invoice issued by the * * * department
371 at the time of the wholesale sale covering the merchandise
372 transported by the vehicle. The * * * department is authorized to
373 issue regulations controlling the transportation of alcoholic
374 beverages.

375 When the restrictions imposed by this section and by the
376 regulation of the * * * department have not been violated, the
377 person transporting alcoholic beverages through a county wherein
378 the sale of alcoholic beverages is prohibited shall not be guilty
379 of unlawful possession and such merchandise shall be immune from
380 seizure.

381 **SECTION 13.** Section 27-71-29, Mississippi Code of 1972, is
382 amended as follows:

383 27-71-29. (1) All taxes levied by this article shall be
384 paid to the * * * department in cash or by personal check,
385 cashier's check, bank exchange, post office money order or express
386 money order and shall be deposited by the * * * department in the
387 State Treasury on the same day collected, but no remittances other



than cash shall be a final discharge of liability for the tax herein imposed and levied unless and until it has been paid in cash to the * * * department.

(2) All taxes levied under Section 27-71-7(1) and received by the * * * department under this article shall be paid into the General Fund, and the three percent (3%) levied under Section 27-71-7(2) and received by the * * * department under this article shall be paid into the special fund in the State Treasury designated as the "Alcoholism Treatment and Rehabilitation Fund" as required by law. Any funds derived from the sale of alcoholic beverages in excess of inventory requirements shall be paid not less often than annually into the General Fund.

(3) All taxes levied under Section 27-71-7(3) and received by the department under this article shall be paid into the General Fund, except for an amount equivalent to the three percent (3%) levied under Section 27-71-7(2), which shall be paid into the special fund in the State Treasury designated as the "Mental Health Programs Fund" as required by law.

SECTION 14. Section 67-1-41, Mississippi Code of 1972, is amended as follows:

67-1-41. (1) The department is hereby created a wholesale distributor and seller of alcoholic beverages, not including malt liquors, within the State of Mississippi. It is granted the sole right to import and sell intoxicating liquors at wholesale within the state, and no person who is granted the right to sell,



distribute or receive intoxicating liquors at retail shall purchase any intoxicating liquors from any source other than the department except as authorized in subsections (4) and (9) of this section and Sections 1 through 9 of this act. The department may establish warehouses, purchase intoxicating liquors in such quantities and from such sources as it may deem desirable and sell the intoxicating liquors to authorized permittees within the state including, at the discretion of the department, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this chapter.

(2) No person for the purpose of sale shall manufacture, distill, brew, sell, possess, export, transport, distribute, warehouse, store, solicit, take orders for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except in accordance with authority granted under this chapter, or as otherwise provided by law for native wines.

(3) No alcoholic beverage intended for sale or resale shall be imported, shipped or brought into this state for delivery to any person other than as provided in this chapter, or as otherwise provided by law for native wines.



437 (4) The department may promulgate rules and regulations
438 which authorize on-premises retailers to purchase limited amounts
439 of alcoholic beverages from package retailers and for package
440 retailers to purchase limited amounts of alcoholic beverages from
441 other package retailers. The department shall develop and provide
442 forms to be completed by the on-premises retailers and the package
443 retailers verifying the transaction. The completed forms shall be
444 forwarded to the department within a period of time prescribed by
445 the department.

446 (5) The department may promulgate rules which authorize the
447 holder of a package retailer's permit to permit individual retail
448 purchasers of packages of alcoholic beverages to return, for
449 exchange, credit or refund, limited amounts of original sealed and
450 unopened packages of alcoholic beverages purchased by the
451 individual from the package retailer.

452 (6) The department shall maintain all forms to be completed
453 by applicants necessary for licensure by the department at all
454 district offices of the department.

455 (7) The department may promulgate rules which authorize the
456 manufacturer of an alcoholic beverage or wine to import, transport
457 and furnish or give a sample of alcoholic beverages or wines to
458 the holders of package retailer's permits, on-premises retailer's
459 permits, native wine retailer's permits and temporary retailer's
460 permits who have not previously purchased the brand of that
461 manufacturer from the department. For each holder of the



designated permits, the manufacturer may furnish not more than five hundred (500) milliliters of any brand of alcoholic beverage and not more than three (3) liters of any brand of wine.

(8) The department may promulgate rules disallowing open product sampling of alcoholic beverages or wines by the holders of package retailer's permits and permitting open product sampling of alcoholic beverages by the holders of on-premises retailer's permits. Permitted sample products shall be plainly identified "sample" and the actual sampling must occur in the presence of the manufacturer's representatives during the legal operating hours of on-premises retailers.

(9) The department may promulgate rules and regulations that authorize the holder of a research permit to import and purchase limited amounts of alcoholic beverages from importers, wineries and distillers of alcoholic beverages or from the department. The department shall develop and provide forms to be completed by the research permittee verifying each transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department. The records and inventory of alcoholic beverages shall be open to inspection at any time by the Director of the Alcoholic Beverage Control Division or any duly authorized agent.

(10) This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit.



487 **SECTION 15.** Section 67-1-45, Mississippi Code of 1972, is
488 amended as follows:

489 67-1-45. No manufacturer, rectifier or distiller of
490 intoxicating liquor shall sell or attempt to sell any such
491 intoxicating liquor, except malt liquor, within the State of
492 Mississippi, except to the * * * department, or to the holder of a
493 research permit as provided in Section 67-1-41. A producer of
494 native wine may sell native wines to the * * * department or to
495 consumers at the location of the native winery or its immediate
496 vicinity. The holder of a direct wine shipper's permit may sell
497 wines directly to residents in this state as authorized by
498 Sections 1 through 9 of this act.

499 Any violation of this section by any manufacturer, rectifier
500 or distiller shall be punished by a fine of not less than Five
501 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
502 (\$2,000.00), to which may be added imprisonment in the county jail
503 not to exceed six (6) months.

504 **SECTION 16.** Section 67-1-51, Mississippi Code of 1972, is
505 amended as follows:

506 67-1-51. (1) Permits which may be issued by the department
507 shall be as follows:

508 (a) **Manufacturer's permit.** A manufacturer's permit
509 shall permit the manufacture, importation in bulk, bottling and
510 storage of alcoholic liquor and its distribution and sale to
511 manufacturers holding permits under this chapter in this state and



to persons outside the state who are authorized by law to purchase the same, and to sell exclusively to the department.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

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

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

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph and Section 67-1-52, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. In addition, a holder of a package retailer's permit may sell at retail through the Internet and ship wine in original sealed and unopened packages to residents in this state and which is not to be consumed on the premises where sold. A holder of a package



537 retailer's permit making such sales of wine shall (i) ensure that
538 all containers of wine sold and shipped directly to a resident in
539 this state are conspicuously labeled with the words "CONTAINS
540 WINE: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR
541 DELIVERY" and (ii) report to the department annually the total
542 amount of wine sold and shipped within the state during the
543 preceding calendar year. A holder of a package retailer's permit
544 who sells wine through the Internet may not sell or ship any
545 alcoholic beverage other than wine or ship wine to an address in a
546 county that has not voted in favor of coming out from under the
547 dry law. Alcoholic beverages shall not be sold by any retailer in
548 any package or container containing less than fifty (50)
549 milliliters by liquid measure. A package retailer's permit, with
550 prior approval from the department, shall authorize the holder
551 thereof to sample new product furnished by a manufacturer's
552 representative or his employees at the permitted place of business
553 so long as the sampling otherwise complies with this chapter and
554 applicable department regulations. Such samples may not be
555 provided to customers at the permitted place of business. In
556 addition to the sale at retail of packages of alcoholic beverages,
557 the holder of a package retailer's permit is authorized to sell at
558 retail corkscrews, wine glasses, soft drinks, ice, juices, mixers
559 and other beverages commonly used to mix with alcoholic beverages.
560 Nonalcoholic beverages sold by the holder of a package retailer's
561 permit shall not be consumed on the premises where sold.



562 (c) **On-premises retailer's permit.** Except as otherwise
563 provided in subsection (5) of this section, an on-premises
564 retailer's permit shall authorize the sale of alcoholic beverages,
565 including native wines, for consumption on the licensed premises
566 only; however, a patron of the permit holder may remove one (1)
567 bottle of wine from the licensed premises if: (i) the patron
568 consumed a portion of the bottle of wine in the course of
569 consuming a meal purchased on the licensed premises; (ii) the
570 permit holder securely reseals the bottle; (iii) the bottle is
571 placed in a bag that is secured in a manner so that it will be
572 visibly apparent if the bag is opened; and (iv) a dated receipt
573 for the wine and the meal is available. Such a permit shall be
574 issued only to qualified hotels, restaurants and clubs, and to
575 common carriers with adequate facilities for serving passengers.
576 In resort areas, whether inside or outside of a municipality, the
577 department, in its discretion, may issue on-premises retailer's
578 permits to such establishments as it deems proper. An on-premises
579 retailer's permit when issued to a common carrier shall authorize
580 the sale and serving of alcoholic beverages aboard any licensed
581 vehicle while moving through any county of the state; however, the
582 sale of such alcoholic beverages shall not be permitted while such
583 vehicle is stopped in a county that has not legalized such sales.
584 If an on-premises retailer's permit is applied for by a common
585 carrier operating solely in the water, such common carrier must,
586 along with all other qualifications for a permit, (i) be certified



to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers and (ii) operate primarily in the waters within the State of Mississippi which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi and/or on the Mississippi River or navigable waters within any county bordering on the Mississippi River.

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

(e) **Native wine retailer's permit.** Except as otherwise provided in subsection (5) of this section, a native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises



612 consumption or to consumers in originally sealed and unopened
613 containers at an establishment located on the premises of or in
614 the immediate vicinity of a native winery.

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

620 Temporary retailer's permits shall be of the following
621 classes:

622 Class 1. A temporary one-day permit may be issued to bona
623 fide nonprofit civic or charitable organizations authorizing the
624 sale of alcoholic beverages, including native wine, for
625 consumption on the premises described in the temporary permit
626 only. Class 1 permits may be issued only to applicants
627 demonstrating to the department, by a statement signed under
628 penalty of perjury submitted ten (10) days prior to the proposed
629 date or such other time as the department may determine, that they
630 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
631 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
632 Class 1 permittees shall obtain all alcoholic beverages from
633 package retailers located in the county in which the temporary
634 permit is issued. Alcoholic beverages remaining in stock upon
635 expiration of the temporary permit may be returned by the
636 permittee to the package retailer for a refund of the purchase



637 price upon consent of the package retailer or may be kept by the
638 permittee exclusively for personal use and consumption, subject to
639 all laws pertaining to the illegal sale and possession of
640 alcoholic beverages. The department, following review of the
641 statement provided by the applicant and the requirements of the
642 applicable statutes and regulations, may issue the permit.

643 Class 2. A temporary permit, not to exceed seventy (70)
644 days, may be issued to prospective permittees seeking to transfer
645 a permit authorized in paragraph (c) of this subsection. A Class
646 2 permit may be issued only to applicants demonstrating to the
647 department, by a statement signed under the penalty of perjury,
648 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
649 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
650 67-1-59. The department, following a preliminary review of the
651 statement provided by the applicant and the requirements of the
652 applicable statutes and regulations, may issue the permit.

653 Class 2 temporary permittees must purchase their alcoholic
654 beverages directly from the department or, with approval of the
655 department, purchase the remaining stock of the previous
656 permittee. If the proposed applicant of a Class 1 or Class 2
657 temporary permit falsifies information contained in the
658 application or statement, the applicant shall never again be
659 eligible for a retail alcohol beverage permit and shall be subject
660 to prosecution for perjury.



661 Class 3. A temporary one-day permit may be issued to a
662 retail establishment authorizing the complimentary distribution of
663 wine, including native wine, to patrons of the retail
664 establishment at an open house or promotional event, for
665 consumption only on the premises described in the temporary
666 permit. A Class 3 permit may be issued only to an applicant
667 demonstrating to the department, by a statement signed under
668 penalty of perjury submitted ten (10) days before the proposed
669 date or such other time as the department may determine, that it
670 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
671 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
672 A Class 3 permit holder shall obtain all alcoholic beverages from
673 the holder(s) of a package retailer's permit located in the county
674 in which the temporary permit is issued. Wine remaining in stock
675 upon expiration of the temporary permit may be returned by the
676 Class 3 temporary permit holder to the package retailer for a
677 refund of the purchase price, with consent of the package
678 retailer, or may be kept by the Class 3 temporary permit holder
679 exclusively for personal use and consumption, subject to all laws
680 pertaining to the illegal sale and possession of alcoholic
681 beverages. The department, following review of the statement
682 provided by the applicant and the requirements of the applicable
683 statutes and regulations, may issue the permit. No retailer may
684 receive more than twelve (12) Class 3 temporary permits in a
685 calendar year. A Class 3 temporary permit shall not be issued to



686 a retail establishment that either holds a merchant permit issued
687 under paragraph (1) of this subsection, or holds a permit issued
688 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
689 the holder to engage in the business of a retailer of light wine
690 or beer.

691 (g) **Caterer's permit.** A caterer's permit shall permit
692 the purchase of alcoholic beverages by a person engaging in
693 business as a caterer and the resale of alcoholic beverages by
694 such person in conjunction with such catering business. No person
695 shall qualify as a caterer unless forty percent (40%) or more of
696 the revenue derived from such catering business shall be from the
697 serving of prepared food and not from the sale of alcoholic
698 beverages and unless such person has obtained a permit for such
699 business from the Department of Health. A caterer's permit shall
700 not authorize the sale of alcoholic beverages on the premises of
701 the person engaging in business as a caterer; however, the holder
702 of an on-premises retailer's permit may hold a caterer's permit.
703 When the holder of an on-premises retailer's permit or an
704 affiliated entity of the holder also holds a caterer's permit, the
705 caterer's permit shall not authorize the service of alcoholic
706 beverages on a consistent, recurring basis at a separate, fixed
707 location owned or operated by the caterer, on-premises retailer or
708 affiliated entity and an on-premises retailer's permit shall be
709 required for the separate location. All sales of alcoholic
710 beverages by holders of a caterer's permit shall be made at the



location being catered by the caterer, and, except as otherwise provided in subsection (5) of this section, such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale, distribution and possession of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from



importers, wineries and distillers of alcoholic beverages for professional research.

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

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

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



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

(m) **Temporary alcoholic beverages charitable auction permit.** A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell alcoholic beverages for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following requirements: (i) the auction is conducted in an area of the state where the sale of alcoholic beverages is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the alcoholic beverages to be auctioned must be stored separately from the alcoholic beverages sold, stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit



holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(n) **Event venue retailer's permit.** An event venue retailer's permit shall authorize the holder thereof to purchase and resell alcoholic beverages, including native wines, for consumption on the premises during legal hours during events held on the licensed premises if food is being served at the event by a caterer who is not affiliated with or related to the permittee. The caterer must serve at least three (3) entrees. The permit may only be issued for venues that can accommodate two hundred (200) persons or more. The number of persons a venue may accommodate shall be determined by the local fire department and such determination shall be provided in writing and submitted along with all other documents required to be provided for an on-premises retailer's permit. The permittee must derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales for live entertainment in the building. "Event-related fees" do not include alcohol, beer or light wine sales or any fee which may be construed to cover the cost of alcohol, beer or light wine. This determination shall be made on a per event basis. An event may not last longer than two (2) consecutive days per week.

(o) **Temporary theatre permit.** A temporary theatre permit, not to exceed five (5) days, may be issued to a charitable nonprofit organization that is exempt from taxation under Section



501(c) (3) or (4) of the Internal Revenue Code and owns or operates a theatre facility that features plays and other theatrical performances and productions. Except as otherwise provided in subsection (5) of this section, the permit shall authorize the holder to sell alcoholic beverages, including native wines, to patrons of the theatre during performances and productions at the theatre facility for consumption during such performances and productions on the premises of the facility described in the permit. A temporary theatre permit holder shall obtain all alcoholic beverages from package retailers located in the county in which the permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary theatre permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages.

(p) **Charter ship operator's permit.** Subject to the provisions of this paragraph (p), a charter ship operator's permit shall authorize the holder thereof and its employees to serve, monitor, store and otherwise control the serving and availability of alcoholic beverages to customers of the permit holder during private charters under contract provided by the permit holder. A charter ship operator's permit shall authorize such action by the permit holder and its employees only as to alcoholic beverages



835 brought onto the permit holder's ship by customers of the permit
836 holder as part of such a private charter. All such alcoholic
837 beverages must be removed from the charter ship at the conclusion
838 of each private charter. A charter ship operator's permit shall
839 not authorize the permit holder to sell, charge for or otherwise
840 supply alcoholic beverages to customers, except as authorized in
841 this paragraph (p). For the purposes of this paragraph (p),
842 "charter ship operator" means a common carrier that (i) is
843 certified to carry at least one hundred fifty (150) passengers
844 and/or provide overnight accommodations for at least fifty (50)
845 passengers, (ii) operates only in the waters within the State of
846 Mississippi, which lie adjacent to the State of Mississippi south
847 of the three (3) most southern counties in the State of
848 Mississippi, and (iii) provides charters under contract for tours
849 and trips in such waters.

850 (q) **Distillery retailer's permit.** The holder of a
851 Class 1 manufacturer's permit may obtain a distillery retailer's
852 permit. A distillery retailer's permit shall authorize the holder
853 thereof to sell at retail alcoholic beverages by the sealed and
854 unopened bottle from a retail location at the distillery for
855 off-premises consumption. The holder may only sell product
856 manufactured by the manufacturer at the distillery described in
857 the permit. The holder shall not sell at retail more than ten
858 percent (10%) of the alcoholic beverages produced annually at its
859 distillery. The holder shall not make retail sales of more than



two and twenty-five one-hundredths (2.25) liters, in the aggregate, of the alcoholic beverages produced at its distillery to any one (1) individual for consumption off the premises of the distillery within a twenty-four-hour period. The hours of sale shall be the same as those hours for package retailers under this chapter. The holder of a distillery retailer's permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse; however, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder shall pay to the department all taxes, fees and surcharges on the alcoholic beverages that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. In addition to alcoholic beverages, the holder of a distillery retailer's permit may sell at retail promotional products from the same retail location, including shirts, hats, glasses, and other promotional products customarily sold by alcoholic beverage manufacturers.

(r) **Direct wine shipper's permit.** A direct wine shipper's permit shall authorize the holder to sell and ship a limited amount of wine directly to residents in this state in accordance with the provisions of Sections 1 through 9 of this act, without being required to transact the sale and shipment of those wines through the Alcoholic Beverage Control Division of the department.



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

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

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

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



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

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

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



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

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

SECTION 17. Section 67-1-53, Mississippi Code of 1972, is
amended as follows:

67-1-53. (1) Application for permits shall be in such form
and shall contain such information as shall be required by the
regulations of the * * * department; however, no regulation of
the * * * department shall require personal financial information
from any officer of a corporation applying for an on-premises
retailer's permit to sell alcoholic beverages unless such officer
owns ten percent (10%) or more of the stock of such corporation.

(2) Every applicant for each type of permit authorized by
Section 67-1-51 shall give notice of such application by
publication for two (2) consecutive issues in a newspaper of
general circulation published in the city or town in which
applicant's place of business is located. However, in instances
where no newspaper is published in the city or town, then the
notice shall be published in a newspaper of general circulation
published in the county where the applicant's business is located.
If no newspaper is published in the county, the notice shall be



published in a qualified newspaper which is published in the
closest neighboring county and circulated in the county of
applicant's residence. The notice shall be printed in ten-point
black face type and shall set forth the type of permit to be
applied for, the exact location of the place of business, the name
of the owner or owners thereof, and if operating under an assumed
name, the trade name together with the names of all owners, and if
a corporation, the names and titles of all officers. The cost of
such notice shall be borne by the applicant. The provisions of
this subsection (2) shall not apply to applicants for a direct
wine shipper's permit under Sections 1 through 9 of this act.

(3) Each application or filing made under this section shall
include the social security number(s) of the applicant in
accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 18. Section 67-1-55, Mississippi Code of 1972, is
amended as follows:

67-1-55. No permit of any type shall be issued by the * * *
department until the applicant has first filed with the * * *
department a sworn statement disclosing all persons who are
financially involved in the operation of the business for which
the permit is sought. If an applicant is an individual, he will
swear that he owns one hundred percent (100%) of the business for
which he is seeking a permit. If the applicant is a partnership,
all partners and their addresses shall be disclosed and the extent
of their interest in the partnership shall be disclosed. If the



985 applicant is a corporation, the total stock in the corporation
986 shall be disclosed and each shareholder and his address and the
987 amount of stock in the corporation owned by him shall be
988 disclosed. If the applicant is a limited liability company, each
989 member and their addresses shall be disclosed and the extent of
990 their interest in the limited liability company shall be
991 disclosed. If the applicant is a trust, the trustee and all
992 beneficiaries and their addresses shall be disclosed. If the
993 applicant is a combination of any of the above, all information
994 required to be disclosed above shall be required.

995 All the disclosures shall be in writing and kept on file at
996 the * * * department and shall be available to the public.

997 Every applicant must, when applying for a renewal of his
998 permit, disclose any change in the ownership of the business or
999 any change in the beneficiaries of the income from the business.

1000 Any person who willfully fails to fully disclose the
1001 information required by this section, or who gives false
1002 information, shall be guilty of a misdemeanor and, upon conviction
1003 thereof, shall be fined a sum not to exceed Five Hundred Dollars
1004 (\$500.00) or imprisoned for not more than one (1) year, or both,
1005 and the person or applicant shall never again be eligible for any
1006 permit pertaining to alcoholic beverages.

1007 The provisions of this section shall not apply to applicants
1008 for a direct wine shipper's permit under Sections 1 through 9 of
1009 this act.



1010 **SECTION 19.** Section 67-1-57, Mississippi Code of 1972, is
1011 amended as follows:

1012 67-1-57. Before a permit is issued the department shall
1013 satisfy itself:

1014 (a) That the applicant, if an individual, or if a
1015 partnership, each of the members of the partnership, or if a
1016 corporation, each of its principal officers and directors, or if a
1017 limited liability company, each member of the limited liability
1018 company, is of good moral character and, in addition, enjoys a
1019 reputation of being a peaceable, law-abiding citizen of the
1020 community in which he resides, and is generally fit for the trust
1021 to be reposed in him, is not less than twenty-one (21) years of
1022 age, and has not been convicted of a felony in any state or
1023 federal court.

1024 (b) That, except in the case of an application for a
1025 solicitor's permit, the applicant is the true and actual owner of
1026 the business for which the permit is desired, and that he intends
1027 to carry on the business authorized for himself and not as the
1028 agent of any other person, and that he intends to superintend in
1029 person the management of the business or that he will designate a
1030 manager to manage the business for him. Except for managers
1031 employed by the holder of a direct wine shipper's permit, all
1032 managers must be approved by the department prior to completing
1033 any managerial tasks on behalf of the permittee and must possess
1034 all of the qualifications required of a permittee; however, a



1035 felony conviction, other than a crime of violence, does not
1036 automatically disqualify a person from being approved as a manager
1037 if the person was released from incarceration at least three (3)
1038 years prior to application for approval as a manager. A felony
1039 conviction, other than a crime of violence, may be considered by
1040 the department in determining whether all other qualifications are
1041 met.

1042 (c) That the applicant for a package retailer's permit,
1043 if an individual, is a resident of the State of Mississippi. If
1044 the applicant is a partnership, each member of the partnership
1045 must be a resident of the state. If the applicant is a limited
1046 liability company, each member of the limited liability company
1047 must be a resident of the state. If the applicant is a
1048 corporation, the designated manager of the corporation must be a
1049 resident of the state.

1050 (d) That the place for which the permit is to be issued
1051 is an appropriate one considering the character of the premises
1052 and the surrounding neighborhood.

1053 (e) That the place for which the permit is to be issued
1054 is within the corporate limits of an incorporated municipality or
1055 qualified resort area or club which comes within the provisions of
1056 this chapter.

1057 (f) That the applicant is not indebted to the state for
1058 any taxes, fees or payment of penalties imposed by any law of the



1059 State of Mississippi or by any rule or regulation of the * * *
1060 department.

1061 (g) That the applicant is not in the habit of using
1062 alcoholic beverages to excess and is not physically or mentally
1063 incapacitated, and that the applicant has the ability to read and
1064 write the English language.

1065 (h) That the * * * department does not believe and has
1066 no reason to believe that the applicant will sell or knowingly
1067 permit any agent, servant or employee to unlawfully sell liquor in
1068 a dry area or in any other manner contrary to law.

1069 (i) That the applicant is not residentially domiciled
1070 with any person whose permit or license has been cancelled for
1071 cause within the twelve (12) months next preceding the date of the
1072 present application for a permit.

1073 (j) That the * * * department has not, in the exercise
1074 of its discretion which is reserved and preserved to it, refused
1075 to grant permits under the restrictions of this section, as well
1076 as under any other pertinent provision of this chapter.

1077 (k) That there are not sufficient legal reasons to deny
1078 a permit on the ground that the premises for which the permit is
1079 sought has previously been operated, used or frequented for any
1080 purpose or in any manner that is lewd, immoral or offensive to
1081 public decency. In the granting or withholding of any permit to
1082 sell alcoholic beverages at retail, the * * * department in
1083 forming its conclusions may give consideration to any



1084 recommendations made in writing by the district or county attorney
1085 or county, circuit or chancery judge of the county, or the sheriff
1086 of the county, or the mayor or chief of police of an incorporated
1087 city or town wherein the applicant proposes to conduct his
1088 business and to any recommendations made by representatives of the
1089 commission.

1090 (1) That the applicant and the applicant's key
1091 employees, as determined by the * * * department, do not have a
1092 disqualifying criminal record. In order to obtain a criminal
1093 record history check, the applicant shall submit to the commission
1094 a set of fingerprints from any local law enforcement agency for
1095 each person for whom the records check is required. The * * *
1096 department shall forward the fingerprints to the Mississippi
1097 Department of Public Safety. If no disqualifying record is
1098 identified at the state level, the Department of Public Safety
1099 shall forward the fingerprints to the Federal Bureau of
1100 Investigation for a national criminal history record check. Costs
1101 for processing the set or sets of fingerprints shall be borne by
1102 the applicant. The department may waive the fingerprint
1103 requirement in the case of an applicant for a direct wine
1104 shipper's permit. The * * * department shall not deny employment
1105 to an employee of the applicant prior to the identification of a
1106 disqualifying record or other disqualifying information.

1107 **SECTION 20.** Section 67-1-73, Mississippi Code of 1972, is
1108 amended as follows:



1109 67-1-73. (1) Except as otherwise provided in subsection (3)
1110 of this section, every manufacturer, including native wine
1111 producers, within or without the state, and every other shipper of
1112 alcoholic beverages who sells any alcoholic beverage, including
1113 native wine, within the state, shall, at the time of making such
1114 sale, file with the * * * department a copy of the invoice of such
1115 sale showing in detail the kind of alcoholic beverage sold, the
1116 quantities of each, the size of the container and the weight of
1117 the contents, the alcoholic content, and the name and address of
1118 the person to whom sold.

1119 (2) Except as otherwise provided in subsection (3) of this
1120 section, every person transporting alcoholic beverages, including
1121 native wine, within this state to a point within this state,
1122 whether such transportation originates within or without this
1123 state, shall, within five (5) days after delivery of such
1124 shipment, furnish the * * * department a copy of the bill of
1125 lading or receipt, showing the name or consignor or consignee,
1126 date, place received, destination, and quantity of alcoholic
1127 beverages delivered. Upon failure to comply with the provisions
1128 of this section, such person shall be deemed guilty of a
1129 misdemeanor and, upon conviction, thereof shall be fined in the
1130 sum of Fifty Dollars (\$50.00) for each offense.

1131 (3) Information regarding the sales, shipment, delivery and
1132 transportation of wine in this state by the holder of a direct



1133 wine shipper's permit under Sections 1 through 9 of this act shall
1134 be in such form and content as prescribed by the department.

1135 **SECTION 21.** Section 97-31-47, Mississippi Code of 1972, is
1136 amended as follows:

1137 97-31-47. It shall be unlawful for any transportation
1138 company, or any agent, employee, or officer of such company, or
1139 any other person, or corporation to transport into or deliver in
1140 this state in any manner or by any means any spirituous, vinous,
1141 malt, or other intoxicating liquors or drinks, or for any such
1142 person, company, or corporation to transport any spirituous, malt,
1143 vinous, or intoxicating liquors or drinks from one place within
1144 this state to another place within the state, or from one (1)
1145 point within this state to any point without the state, except in
1146 cases where this chapter, * * * Section 67-9-1, or Sections 1
1147 through 9 of this act authorizes the transportation.

1148 **SECTION 22.** Section 97-31-49, Mississippi Code of 1972, is
1149 amended as follows:

1150 97-31-49. Except as otherwise provided in Sections 1 through
1151 9 of this act, it shall be unlawful for any person, firm or
1152 corporation in this state, in person, by letter, circular, or
1153 other printed or written matter, or in any other manner, to
1154 solicit or take order in this state for any liquors, bitters or
1155 drinks prohibited by the laws of this state to be sold, bartered,
1156 or otherwise disposed of. The inhibition of this section shall
1157 apply to such liquors, bitters and drinks, whether the parties



1158 intend that the same shall be shipped into this state from outside
1159 of the state, or from one (1) point in this state to another point
1160 in this state. If such order be in writing, parol evidence
1161 thereof is admissible without producing or accounting for the
1162 absence of the original; and the taking or soliciting of such
1163 orders is within the inhibition of this section, although the
1164 orders are subject to approval by some other person, and no part
1165 of the price is paid, nor any part of the goods is delivered when
1166 the order is taken.

1167 **SECTION 23.** Section 67-1-83, Mississippi Code of 1972, is
1168 amended as follows:

1169 67-1-83. (1) It shall be unlawful for any permittee or
1170 other person to sell or furnish any alcoholic beverage to any
1171 person who is visibly intoxicated, or to any person who is known
1172 to habitually drink alcoholic beverages to excess, or to any
1173 person who is known to be an habitual user of narcotics or other
1174 habit-forming drugs. Except as otherwise provided in Section
1175 67-1-51(1)(b), it shall also be unlawful for the holder of any
1176 package retailer's permit to sell any alcoholic beverages except
1177 by delivery in person to the purchaser at the place of business of
1178 the permittee.

1179 (2) It shall be unlawful for any permittee or other person
1180 to sell or furnish any alcoholic beverage to any person to whom
1181 the commission has, after investigation, decided to prohibit the
1182 sale of those beverages because of an appeal to the commission so



1183 to do by the husband, wife, father, mother, brother, sister,
1184 child, or employer of the person. The interdiction in those cases
1185 shall last until removed by the commission, but no person shall be
1186 held to have violated this subsection unless he has been informed
1187 by the commission, by registered letter, that it is forbidden to
1188 sell to that individual or unless that fact is otherwise known to
1189 the permittee or other person.

1190 (3) It shall be unlawful for any holder of a package
1191 retailer's permit, or any employee or agent thereof, engaged
1192 solely in the business of package retail sales under this chapter
1193 to sell or furnish any alcoholic beverage before 10:00 a.m. and
1194 after 10:00 p.m. or to sell alcoholic beverages on * * * Christmas
1195 Day.

1196 (4) Any person who violates any of the provisions of this
1197 section shall be guilty of a misdemeanor and, upon conviction,
1198 shall be punished by a fine of not more than Five Hundred Dollars
1199 (\$500.00) or by imprisonment in the county jail for a term of not
1200 more than six (6) months, or by both that fine and imprisonment,
1201 in the discretion of the court. In addition, the commission shall
1202 immediately revoke the permit of any permittee who violates the
1203 provisions of this section.

1204 **SECTION 24.** Section 67-1-67, Mississippi Code of 1972, is
1205 brought forward as follows:

1206 67-1-67. No permit shall be transferred by the permittee to
1207 any other person or any other place except with the written



1208 consent of the commission upon a regular application therefor in
1209 writing and upon consideration thereof as provided in this chapter
1210 for an original application for a permit. The commission shall
1211 not approve the transfer of the permit of any person against whom
1212 there is pending in the courts or before the commission any charge
1213 of keeping a disorderly house, or of violating this chapter or the
1214 laws against gambling in this state or against whom there is
1215 pending any proceedings for the revocation, suspension or
1216 cancellation of the permit.

1217 **SECTION 25.** This act shall take effect and be in force from
1218 and after July 1, 2020.

