

Senate Amendments to House Bill No. 1088

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

15 **SECTION 1.** Section 67-1-41, Mississippi Code of 1972, is
16 amended as follows:
17 67-1-41. (1) The department is hereby created a wholesale
18 distributor and seller of alcoholic beverages, not including malt
19 liquors, within the State of Mississippi. It is granted the * * *
20 right to import and sell * * * alcoholic beverages at wholesale
21 within the state, and no person who is granted the right to sell,
22 distribute or receive * * * alcoholic beverages at retail shall
23 purchase any * * * alcoholic beverages from any source other than
24 the department except as authorized in subsections (4) * * *, (9)
25 and (11) of this section. The department may establish
26 warehouses, purchase * * * alcoholic beverages in such quantities
27 and from such sources as it may deem desirable and sell the * * *
28 alcoholic beverages to authorized permittees within the state
29 including, at the discretion of the department, any retail
30 distributors operating within any military post or qualified
31 resort areas within the boundaries of the state, keeping a correct

32 and accurate record of all such transactions and exercising such
33 control over the distribution of alcoholic beverages as seem right
34 and proper in keeping with the provisions or purposes of this
35 chapter.

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

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

46 (4) The department may promulgate rules and regulations
47 which authorize on-premises retailers to purchase limited amounts
48 of alcoholic beverages from package retailers and for package
49 retailers to purchase limited amounts of alcoholic beverages from
50 other package retailers. The department shall develop and provide
51 forms to be completed by the on-premises retailers and the package
52 retailers verifying the transaction. The completed forms shall be
53 forwarded to the department within a period of time prescribed by
54 the department.

55 (5) The department may promulgate rules which authorize the
56 holder of a package retailer's permit to permit individual retail
57 purchasers of packages of alcoholic beverages to return, for

58 exchange, credit or refund, limited amounts of original sealed and
59 unopened packages of alcoholic beverages purchased by the
60 individual from the package retailer.

61 (6) The department shall maintain all forms to be completed
62 by applicants necessary for licensure by the department at all
63 district offices of the department.

64 (7) The department may promulgate rules which authorize the
65 manufacturer of an alcoholic beverage or wine to import, transport
66 and furnish or give a sample of alcoholic beverages or wines to
67 the holders of package retailer's permits, on-premises retailer's
68 permits, native wine retailer's permits and temporary retailer's
69 permits who have not previously purchased the brand of that
70 manufacturer from the department. For each holder of the
71 designated permits, the manufacturer may furnish not more than
72 five hundred (500) milliliters of any brand of alcoholic beverage
73 and not more than three (3) liters of any brand of wine.

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

82 (9) The department may promulgate rules and regulations that
83 authorize the holder of a research permit to import and purchase

84 limited amounts of alcoholic beverages from importers, wineries
85 and distillers of alcoholic beverages or from the department. The
86 department shall develop and provide forms to be completed by the
87 research permittee verifying each transaction. The completed
88 forms shall be forwarded to the department within a period of time
89 prescribed by the department. The records and inventory of
90 alcoholic beverages shall be open to inspection at any time by the
91 Director of the Alcoholic Beverage Control Division or any duly
92 authorized agent.

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

96 (11) (a) An individual resident of this state who is at
97 least twenty-one (21) years of age may purchase wine from a winery
98 and have the purchase shipped into this state so long as it is
99 shipped to a package retailer permittee in Mississippi and so long
100 as that particular wine is not currently brokered in Mississippi;
101 however, the permittee shall pay to the department all taxes, fees
102 and surcharges on the wine that are imposed upon the sale of wine
103 shipped by the department. No credit shall be provided to the
104 permittee for any taxes paid to another state as a result of the
105 transaction. Package retailers may charge a service fee for
106 receiving and handling shipments from wineries on behalf of the
107 purchasers. The department shall develop and provide forms to be
108 completed by the package retailer permittees verifying the

109 transaction. The completed forms shall be forwarded to the
110 department within a period of time prescribed by the department.

111 (b) The purchaser of wine that is to be shipped to a
112 package retailer's store shall be required to get the prior
113 approval of the package retailer before any wine is shipped to the
114 package retailer. A purchaser is limited to no more than ten (10)
115 cases of wine per year to be shipped to a package retailer. A
116 package retailer shall notify a purchaser of wine within two (2)
117 days after receiving the shipment of wine. If the purchaser of
118 the wine does not pick up or take the wine from the package
119 retailer within thirty (30) days after being notified by the
120 package retailer, the package retailer may sell the wine as part
121 of his inventory.

122 (c) Shipments of wine into this state under this
123 section shall be made by a duly licensed carrier. It shall be the
124 duty of every common or contract carrier, and of every firm or
125 corporation that shall bring, carry or transport wine from outside
126 the state for delivery inside the state to package retailer
127 permittees on behalf of consumers, to prepare and file with the
128 department, on a schedule as determined by the department, of
129 known wine shipments containing the name of the common or contract
130 carrier, firm or corporation making the report, the period of time
131 covered by said report, the name and permit number of the winery,
132 the name and permit number of the package retailer permittee
133 receiving such wine, the weight of the package delivered to each
134 package retailer permittee, a unique tracking number, and the date

135 of delivery. Reports received by the department shall be made
136 available by the department to the public via the Mississippi
137 Public Records Act process in the same manner as other state
138 alcohol filings.

139 Upon the department's request, any records supporting the
140 report shall be made available to the department within a
141 reasonable time after the department makes a written request for
142 such records. Any records containing information relating to such
143 reports shall be kept and preserved for a period of two (2) years,
144 unless their destruction sooner is authorized, in writing, by the
145 department, and shall be open and available to inspection by the
146 department upon the department's written request. Reports shall
147 also be made available to any law enforcement or regulatory body
148 in the state in which the railroad company, express company,
149 common or contract carrier making the report resides or does
150 business.

151 Any common or contract carrier that willfully fails to make
152 reports, as provided by this section or any of the rules and
153 regulations of the department for the administration and
154 enforcement of this section, is subject to a notification of
155 violation. In the case of a continuing failure to make reports,
156 the common or contract carrier is subject to possible license
157 suspension and revocation at the department's discretion.

158 (d) A winery that ships wine under this section shall
159 be deemed to have consented to the jurisdiction of the courts of
160 this state, of the department, of any other state agency regarding

161 the enforcement of this section, and of any related law, rules or
162 regulations.

163 (e) Any person who makes, participates in, transports,
164 imports or receives a shipment in violation of this section is
165 guilty of a misdemeanor and, upon conviction thereof, shall be
166 punished by a fine of One Thousand Dollars (\$1,000.00) or
167 imprisonment in the county jail for not more than six (6) months,
168 or both. Each shipment shall constitute a separate offense.

169 (12) If any provision of this chapter, or its application to
170 any person or circumstance, is determined by a court to be invalid
171 or unconstitutional, the remaining provisions shall be construed
172 in accordance with the intent of the Legislature to further limit
173 rather than expand commerce in alcoholic beverages to protect the
174 health, safety, and welfare of the state's residents, and to
175 enhance strict regulatory control over taxation, distribution and
176 sale of alcoholic beverages through the three-tier regulatory
177 system imposed by this chapter upon all alcoholic beverages to
178 curb relationships and practices calculated to stimulate sales and
179 impair the state's policy favoring trade stability and the
180 promotion of temperance.

181 **SECTION 2.** Section 67-1-43, Mississippi Code of 1972, is
182 amended as follows:

183 67-1-43. Any authorized retail distributor who shall
184 purchase or receive intoxicating liquor from any source except
185 from the * * * department, unless authorized by rules and
186 regulations of the * * * department promulgated under * * *

187 Section 67-1-41, shall be guilty of a misdemeanor and upon
188 conviction thereof shall be punished by a fine of not less than
189 Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars
190 (\$2,000.00), to which may be added imprisonment in the county jail
191 for not more than six (6) months. Any authorization of such
192 person to sell intoxicating beverages may be revoked as provided
193 by law.

194 **SECTION 3.** Section 67-1-45, Mississippi Code of 1972, is
195 amended as follows:

196 67-1-45. No manufacturer, rectifier or distiller of * * *
197 alcoholic beverages shall sell or attempt to sell any such * * *
198 alcoholic beverages, except malt liquor, within the State of
199 Mississippi, except to the * * * department, or * * * as provided
200 in Section 67-1-41. A producer of native wine may sell native
201 wines to the * * * department or to consumers at the location of
202 the native winery or its immediate vicinity.

203 Any violation of this section by any manufacturer, rectifier
204 or distiller shall be punished by a fine of not less than Five
205 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
206 (\$2,000.00), to which may be added imprisonment in the county jail
207 not to exceed six (6) months.

208 **SECTION 4.** Section 67-1-51, Mississippi Code of 1972, is
209 amended as follows:

210 67-1-51. (1) Permits which may be issued by the department
211 shall be as follows:

212 (a) **Manufacturer's permit.** A manufacturer's permit
213 shall permit the manufacture, importation in bulk, bottling and
214 storage of alcoholic liquor and its distribution and sale to
215 manufacturers holding permits under this chapter in this state and
216 to persons outside the state who are authorized by law to purchase
217 the same, and to sell * * * as provided by this chapter.

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

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

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

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

231 (b) **Package retailer's permit.** Except as otherwise
232 provided in this paragraph and Section 67-1-52, a package
233 retailer's permit shall authorize the holder thereof to operate a
234 store exclusively for the sale at retail in original sealed and
235 unopened packages of alcoholic beverages, including native wines,
236 not to be consumed on the premises where sold. Alcoholic
237 beverages shall not be sold by any retailer in any package or

238 container containing less than fifty (50) milliliters by liquid
239 measure. A package retailer's permit, with prior approval from
240 the department, shall authorize the holder thereof to sample new
241 product furnished by a manufacturer's representative or his
242 employees at the permitted place of business so long as the
243 sampling otherwise complies with this chapter and applicable
244 department regulations. Such samples may not be provided to
245 customers at the permitted place of business. In addition to the
246 sale at retail of packages of alcoholic beverages, the holder of a
247 package retailer's permit is authorized to sell at retail
248 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
249 other beverages commonly used to mix with alcoholic beverages.
250 Nonalcoholic beverages sold by the holder of a package retailer's
251 permit shall not be consumed on the premises where sold.

252 (c) **On-premises retailer's permit.** Except as otherwise
253 provided in subsection (5) of this section, an on-premises
254 retailer's permit shall authorize the sale of alcoholic beverages,
255 including native wines, for consumption on the licensed premises
256 only; however, a patron of the permit holder may remove one (1)
257 bottle of wine from the licensed premises if: (i) the patron
258 consumed a portion of the bottle of wine in the course of
259 consuming a meal purchased on the licensed premises; (ii) the
260 permit holder securely reseals the bottle; (iii) the bottle is
261 placed in a bag that is secured in a manner so that it will be
262 visibly apparent if the bag is opened; and (iv) a dated receipt
263 for the wine and the meal is available. Such a permit shall be

264 issued only to qualified hotels, restaurants and clubs, and to
265 common carriers with adequate facilities for serving passengers.
266 In resort areas, whether inside or outside of a municipality, the
267 department, in its discretion, may issue on-premises retailer's
268 permits to such establishments as it deems proper. An on-premises
269 retailer's permit when issued to a common carrier shall authorize
270 the sale and serving of alcoholic beverages aboard any licensed
271 vehicle while moving through any county of the state; however, the
272 sale of such alcoholic beverages shall not be permitted while such
273 vehicle is stopped in a county that has not legalized such sales.
274 If an on-premises retailer's permit is applied for by a common
275 carrier operating solely in the water, such common carrier must,
276 along with all other qualifications for a permit, (i) be certified
277 to carry at least one hundred fifty (150) passengers and/or
278 provide overnight accommodations for at least fifty (50)
279 passengers and (ii) operate primarily in the waters within the
280 State of Mississippi which lie adjacent to the State of
281 Mississippi south of the three (3) most southern counties in the
282 State of Mississippi and/or on the Mississippi River or navigable
283 waters within any county bordering on the Mississippi River.

284 (d) **Solicitor's permit.** A solicitor's permit shall
285 authorize the holder thereof to act as salesman for a manufacturer
286 or wholesaler holding a proper permit, to solicit on behalf of his
287 employer orders for alcoholic beverages, and to otherwise promote
288 his employer's products in a legitimate manner. Such a permit
289 shall authorize the representation of and employment by one (1)

290 principal only. However, the permittee may also, in the
291 discretion of the department, be issued additional permits to
292 represent other principals. No such permittee shall buy or sell
293 alcoholic beverages for his own account, and no such beverage
294 shall be brought into this state in pursuance of the exercise of
295 such permit otherwise than through a permit issued to a wholesaler
296 or manufacturer in the state.

297 (e) **Native wine retailer's permit.** Except as otherwise
298 provided in subsection (5) of this section, a native wine
299 retailer's permit shall be issued only to a holder of a Class 3
300 manufacturer's permit, and shall authorize the holder thereof to
301 make retail sales of native wines to consumers for on-premises
302 consumption or to consumers in originally sealed and unopened
303 containers at an establishment located on the premises of or in
304 the immediate vicinity of a native winery.

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

310 Temporary retailer's permits shall be of the following
311 classes:

312 Class 1. A temporary one-day permit may be issued to bona
313 fide nonprofit civic or charitable organizations authorizing the
314 sale of alcoholic beverages, including native wine, for
315 consumption on the premises described in the temporary permit

316 only. Class 1 permits may be issued only to applicants
317 demonstrating to the department, by a statement signed under
318 penalty of perjury submitted ten (10) days prior to the proposed
319 date or such other time as the department may determine, that they
320 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
321 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
322 Class 1 permittees shall obtain all alcoholic beverages from
323 package retailers located in the county in which the temporary
324 permit is issued. Alcoholic beverages remaining in stock upon
325 expiration of the temporary permit may be returned by the
326 permittee to the package retailer for a refund of the purchase
327 price upon consent of the package retailer or may be kept by the
328 permittee exclusively for personal use and consumption, subject to
329 all laws pertaining to the illegal sale and possession of
330 alcoholic beverages. The department, following review of the
331 statement provided by the applicant and the requirements of the
332 applicable statutes and regulations, may issue the permit.

333 Class 2. A temporary permit, not to exceed seventy (70)
334 days, may be issued to prospective permittees seeking to transfer
335 a permit authorized in paragraph (c) of this subsection. A Class
336 2 permit may be issued only to applicants demonstrating to the
337 department, by a statement signed under the penalty of perjury,
338 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
339 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
340 67-1-59. The department, following a preliminary review of the

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

343 Class 2 temporary permittees must purchase their alcoholic
344 beverages directly from the department or, with approval of the
345 department, purchase the remaining stock of the previous
346 permittee. If the proposed applicant of a Class 1 or Class 2
347 temporary permit falsifies information contained in the
348 application or statement, the applicant shall never again be
349 eligible for a retail alcohol beverage permit and shall be subject
350 to prosecution for perjury.

351 Class 3. A temporary one-day permit may be issued to a
352 retail establishment authorizing the complimentary distribution of
353 wine, including native wine, to patrons of the retail
354 establishment at an open house or promotional event, for
355 consumption only on the premises described in the temporary
356 permit. A Class 3 permit may be issued only to an applicant
357 demonstrating to the department, by a statement signed under
358 penalty of perjury submitted ten (10) days before the proposed
359 date or such other time as the department may determine, that it
360 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
361 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
362 A Class 3 permit holder shall obtain all alcoholic beverages from
363 the holder(s) of a package retailer's permit located in the county
364 in which the temporary permit is issued. Wine remaining in stock
365 upon expiration of the temporary permit may be returned by the
366 Class 3 temporary permit holder to the package retailer for a

367 refund of the purchase price, with consent of the package
368 retailer, or may be kept by the Class 3 temporary permit holder
369 exclusively for personal use and consumption, subject to all laws
370 pertaining to the illegal sale and possession of alcoholic
371 beverages. The department, following review of the statement
372 provided by the applicant and the requirements of the applicable
373 statutes and regulations, may issue the permit. No retailer may
374 receive more than twelve (12) Class 3 temporary permits in a
375 calendar year. A Class 3 temporary permit shall not be issued to
376 a retail establishment that either holds a merchant permit issued
377 under paragraph (1) of this subsection, or holds a permit issued
378 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
379 the holder to engage in the business of a retailer of light wine
380 or beer.

381 (g) **Caterer's permit.** A caterer's permit shall permit
382 the purchase of alcoholic beverages by a person engaging in
383 business as a caterer and the resale of alcoholic beverages by
384 such person in conjunction with such catering business. No person
385 shall qualify as a caterer unless forty percent (40%) or more of
386 the revenue derived from such catering business shall be from the
387 serving of prepared food and not from the sale of alcoholic
388 beverages and unless such person has obtained a permit for such
389 business from the Department of Health. A caterer's permit shall
390 not authorize the sale of alcoholic beverages on the premises of
391 the person engaging in business as a caterer; however, the holder
392 of an on-premises retailer's permit may hold a caterer's permit.

393 When the holder of an on-premises retailer's permit or an
394 affiliated entity of the holder also holds a caterer's permit, the
395 caterer's permit shall not authorize the service of alcoholic
396 beverages on a consistent, recurring basis at a separate, fixed
397 location owned or operated by the caterer, on-premises retailer or
398 affiliated entity and an on-premises retailer's permit shall be
399 required for the separate location. All sales of alcoholic
400 beverages by holders of a caterer's permit shall be made at the
401 location being catered by the caterer, and, except as otherwise
402 provided in subsection (5) of this section, such sales may be made
403 only for consumption at the catered location. The location being
404 catered may be anywhere within a county or judicial district that
405 has voted to come out from under the dry laws or in which the
406 sale, distribution and possession of alcoholic beverages is
407 otherwise authorized by law. Such sales shall be made pursuant to
408 any other conditions and restrictions which apply to sales made by
409 on-premises retail permittees. The holder of a caterer's permit
410 or his employees shall remain at the catered location as long as
411 alcoholic beverages are being sold pursuant to the permit issued
412 under this paragraph (g), and the permittee shall have at the
413 location the identification card issued by the Alcoholic Beverage
414 Control Division of the department. No unsold alcoholic beverages
415 may be left at the catered location by the permittee upon the
416 conclusion of his business at that location. Appropriate law
417 enforcement officers and Alcoholic Beverage Control Division
418 personnel may enter a catered location on private property in

419 order to enforce laws governing the sale or serving of alcoholic
420 beverages.

421 (h) **Research permit.** A research permit shall authorize
422 the holder thereof to operate a research facility for the
423 professional research of alcoholic beverages. Such permit shall
424 authorize the holder of the permit to import and purchase limited
425 amounts of alcoholic beverages from the department or from
426 importers, wineries and distillers of alcoholic beverages for
427 professional research.

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

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

443 (k) **Special service permit.** A special service permit
444 shall authorize the holder to sell commercially sealed alcoholic

445 beverages to the operator of a commercial or private aircraft for
446 en route consumption only by passengers. A special service permit
447 shall be issued only to a fixed-base operator who contracts with
448 an airport facility to provide fueling and other associated
449 services to commercial and private aircraft.

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

458 (m) **Temporary alcoholic beverages charitable auction**
459 **permit.** A temporary permit, not to exceed five (5) days, may be
460 issued to a qualifying charitable nonprofit organization that is
461 exempt from taxation under Section 501(c)(3) or (4) of the
462 Internal Revenue Code of 1986. The permit shall authorize the
463 holder to sell alcoholic beverages for the limited purpose of
464 raising funds for the organization during a live or silent auction
465 that is conducted by the organization and that meets the following
466 requirements: (i) the auction is conducted in an area of the
467 state where the sale of alcoholic beverages is authorized; (ii) if
468 the auction is conducted on the premises of an on-premises
469 retailer's permit holder, then the alcoholic beverages to be
470 auctioned must be stored separately from the alcoholic beverages

471 sold, stored or served on the premises, must be removed from the
472 premises immediately following the auction, and may not be
473 consumed on the premises; (iii) the permit holder may not conduct
474 more than two (2) auctions during a calendar year; (iv) the permit
475 holder may not pay a commission or promotional fee to any person
476 to arrange or conduct the auction.

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

497 (o) **Temporary theatre permit.** A temporary theatre
498 permit, not to exceed five (5) days, may be issued to a charitable
499 nonprofit organization that is exempt from taxation under Section
500 501(c)(3) or (4) of the Internal Revenue Code and owns or operates
501 a theatre facility that features plays and other theatrical
502 performances and productions. Except as otherwise provided in
503 subsection (5) of this section, the permit shall authorize the
504 holder to sell alcoholic beverages, including native wines, to
505 patrons of the theatre during performances and productions at the
506 theatre facility for consumption during such performances and
507 productions on the premises of the facility described in the
508 permit. A temporary theatre permit holder shall obtain all
509 alcoholic beverages from package retailers located in the county
510 in which the permit is issued. Alcoholic beverages remaining in
511 stock upon expiration of the temporary theatre permit may be
512 returned by the permittee to the package retailer for a refund of
513 the purchase price upon consent of the package retailer or may be
514 kept by the permittee exclusively for personal use and
515 consumption, subject to all laws pertaining to the illegal sale
516 and possession of alcoholic beverages.

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

523 charter ship operator's permit shall authorize such action by the
524 permit holder and its employees only as to alcoholic beverages
525 brought onto the permit holder's ship by customers of the permit
526 holder as part of such a private charter. All such alcoholic
527 beverages must be removed from the charter ship at the conclusion
528 of each private charter. A charter ship operator's permit shall
529 not authorize the permit holder to sell, charge for or otherwise
530 supply alcoholic beverages to customers, except as authorized in
531 this paragraph (p). For the purposes of this paragraph (p),
532 "charter ship operator" means a common carrier that (i) is
533 certified to carry at least one hundred fifty (150) passengers
534 and/or provide overnight accommodations for at least fifty (50)
535 passengers, (ii) operates only in the waters within the State of
536 Mississippi, which lie adjacent to the State of Mississippi south
537 of the three (3) most southern counties in the State of
538 Mississippi, and (iii) provides charters under contract for tours
539 and trips in such waters.

540 (q) **Distillery retailer's permit.** The holder of a
541 Class 1 manufacturer's permit may obtain a distillery retailer's
542 permit. A distillery retailer's permit shall authorize the holder
543 thereof to sell at retail alcoholic beverages by the sealed and
544 unopened bottle from a retail location at the distillery for
545 off-premises consumption. The holder may only sell product
546 manufactured by the manufacturer at the distillery described in
547 the permit. The holder shall not sell at retail more than ten
548 percent (10%) of the alcoholic beverages produced annually at its

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

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

571 (3) Except as otherwise provided in this subsection, no
572 authority shall be granted to any person to manufacture, sell or
573 store for sale any intoxicating liquor as specified in this
574 chapter within four hundred (400) feet of any church, school,

575 kindergarten or funeral home. However, within an area zoned
576 commercial or business, such minimum distance shall be not less
577 than one hundred (100) feet.

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

588 The distance restrictions imposed in this subsection shall
589 not apply to the sale or storage of alcoholic beverages at a bed
590 and breakfast inn listed in the National Register of Historic
591 Places or to the sale or storage of alcoholic beverages in a
592 historic district that is listed in the National Register of
593 Historic Places, is a qualified resort area and is located in a
594 municipality having a population greater than one hundred thousand
595 (100,000) according to the latest federal decennial census.

596 (4) No person, either individually or as a member of a firm,
597 partnership, limited liability company or association, or as a
598 stockholder, officer or director in a corporation, shall own or
599 control any interest in more than one (1) package retailer's
600 permit, nor shall such person's spouse, if living in the same

601 household of such person, any relative of such person, if living
602 in the same household of such person, or any other person living
603 in the same household with such person own any interest in any
604 other package retailer's permit.

605 (5) (a) In addition to any other authority granted under
606 this section, the holder of a permit issued under subsection
607 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
608 sell or otherwise provide alcoholic beverages and/or wine to a
609 patron of the permit holder in the manner authorized in the permit
610 and the patron may remove an open glass, cup or other container of
611 the alcoholic beverage and/or wine from the licensed premises and
612 may possess and consume the alcoholic beverage or wine outside of
613 the licensed premises if: (i) the licensed premises is located
614 within a leisure and recreation district created under Section
615 67-1-101 and (ii) the patron remains within the boundaries of the
616 leisure and recreation district while in possession of the
617 alcoholic beverage or wine.

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

622 **SECTION 5.** Section 27-71-7, Mississippi Code of 1972, is
623 brought forward as follows:

624 27-71-7. (1) There is hereby levied and assessed an excise
625 tax upon each case of alcoholic beverages sold by the commission

626 to be collected from each retail licensee at the time of sale in
627 accordance with the following schedule:

- 628 (a) Distilled spirits.....\$2.50 per gallon
- 629 (b) Sparkling wine and champagne.....\$1.00 per gallon
- 630 (c) Other wines, including native
631 wines.....\$.35 per gallon

632 (2) (a) In addition to the tax levied by subsection (1) of
633 this section, and in addition to any other markup collected, the
634 Alcoholic Beverage Control Division shall collect a markup of
635 three percent (3%) on all alcoholic beverages, as defined in
636 Section 67-1-5, Mississippi Code of 1972, which are sold by the
637 division. The proceeds of the markup shall be collected by the
638 division from each purchaser at the time of purchase.

639 (b) Until June 30, 1987, the revenue derived from this
640 three percent (3%) markup shall be deposited by the division in
641 the State Treasury to the credit of the "Alcoholism Treatment and
642 Rehabilitation Fund," a special fund which is hereby created in
643 the State Treasury, and shall be used by the Division of Alcohol
644 and Drug Abuse of the State Department of Mental Health and public
645 or private centers or organizations solely for funding of
646 treatment and rehabilitation programs for alcoholics and alcohol
647 abusers which are sponsored by the division or public or private
648 centers or organizations in such amounts as the Legislature may
649 appropriate to the division for use by the division or public or
650 private centers or organizations for such programs. Any tax
651 revenue in the fund which is not encumbered at the end of the

652 fiscal year shall lapse to the General Fund. It is the intent of
653 the Legislature that the State Department of Mental Health shall
654 continue to seek funds from other sources and shall use the funds
655 appropriated for the purposes of this section and Section 27-71-29
656 to match all federal funds which may be available for alcoholism
657 treatment and rehabilitation.

658 From and after July 1, 1987, the revenue derived from this
659 three percent (3%) markup shall be deposited by the division in
660 the State Treasury to the credit of the "Mental Health Programs
661 Fund," a special fund which is hereby created in the State
662 Treasury and shall be used by the State Department of Mental
663 Health for the service programs of the department. Any revenue in
664 the "Alcoholism Treatment and Rehabilitation Fund" which is not
665 encumbered at the end of Fiscal Year 1987 shall be deposited to
666 the credit of the "Mental Health Programs Fund."

667 **SECTION 6.** This act shall take effect and be in force from
668 and after July 1, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 67-1-41, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT AN INDIVIDUAL MAY PURCHASE WINE FROM A WINERY AND
3 HAVE THE WINE PURCHASED SHIPPED INTO THIS STATE SO LONG AS IT IS
4 SHIPPED TO A PACKAGE RETAILER PERMITTEE IN THIS STATE; TO PROVIDE
5 THAT THE PACKAGE RETAILER PERMITTEE SHALL PAY TO THE DEPARTMENT OF
6 REVENUE ALL TAXES, FEES AND SURCHARGES ON THE WINE THAT ARE
7 IMPOSED UPON THE SALE OF WINE SHIPPED BY THE DEPARTMENT; TO AMEND
8 SECTIONS 67-1-43, 67-1-45 AND 67-1-51, MISSISSIPPI CODE OF 1972,
9 IN CONFORMITY THERETO; TO BRING FORWARD SECTION 27-71-7,
10 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE LEVY OF AN EXCISE
11 TAX AND MARKUP ON ALCOHOLIC BEVERAGES SOLD BY THE DEPARTMENT OF

12 REVENUE, FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
13 PURPOSES.

SS26\HB1088A.2J

Eugene S. Clarke
Secretary of the Senate