

By: Representative Busby

To: Ways and Means

## HOUSE BILL NO. 577

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	(x) Festival wine permit.....	\$ 10.00
203	<u>(y) Direct wine shipper's permit.....</u>	<u>\$ 100.00</u>

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



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

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

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

230 Paragraph (x) of this subsection shall stand repealed from  
231 and after July 1, 2023.

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



239 (b) (i) In addition to the tax imposed in paragraph  
240 (a) of this subsection, there is imposed and shall be collected by  
241 the department from each permittee described in subsection (1)(f),  
242 (g), (h), (m) and (t) of this section, an additional license tax  
243 for the privilege of doing business within any municipality or  
244 county in which the licensee is located in the amount of Two  
245 Hundred Twenty-five Dollars (\$225.00) on purchases exceeding Five  
246 Thousand Dollars (\$5,000.00) and Two Hundred Twenty-five Dollars  
247 (\$225.00) for each additional purchase of Five Thousand Dollars  
248 (\$5,000.00), or fraction thereof.

249 (ii) In addition to the tax imposed in paragraph  
250 (a) of this subsection, there is imposed and shall be collected by  
251 the department from each permittee described in subsection (1)(n)  
252 and (r) of this section, an additional license tax for the  
253 privilege of doing business within any municipality or county in  
254 which the licensee is located in the amount of Two Hundred Fifty  
255 Dollars (\$250.00) on purchases exceeding Five Thousand Dollars  
256 (\$5,000.00) and Two Hundred Twenty-five Dollars (\$225.00) for each  
257 additional purchase of Five Thousand Dollars (\$5,000.00), or  
258 fraction thereof.

259 (iii) Any person who has paid the additional  
260 privilege license tax imposed by this paragraph, and whose permit  
261 is renewed, may add any unused fraction of Five Thousand Dollars  
262 (\$5,000.00) purchases to the first Five Thousand Dollars  
263 (\$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 county jail for a term of not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

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

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

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

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

(2) (a) In addition to the tax levied by subsection (1) of this section, and in addition to any other markup collected, the Alcoholic Beverage Control Division shall collect a markup of



314 three percent (3%) on all alcoholic beverages, as defined in  
315 Section 67-1-5, Mississippi Code of 1972, which are sold by the  
316 division. The proceeds of the markup shall be collected by the  
317 division from each purchaser at the time of purchase.

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

337 From and after July 1, 1987, the revenue derived from this  
338 three percent (3%) markup shall be deposited by the division in



the State Treasury to the credit of the "Mental Health Programs 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 through 9 of this act for the sale and shipment of wine by the holder of a direct wine shipper's permit, if transportation requires passage through a county which has not authorized the sale of alcoholic beverages, such transportation shall be by a sealed vehicle. Such seal shall remain unbroken until the vehicle shall reach the place of business operated by the permittee. The operator of any vehicle transporting alcoholic beverages shall have in his possession an invoice issued by the \* \* \* department at the time of the wholesale sale covering the merchandise transported by the vehicle. The \* \* \* department is authorized to issue regulations controlling the transportation of alcoholic beverages.

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

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

27-71-29. (1) All taxes levied by this article shall be paid to the Department of Revenue in cash or by personal check,



cashier's check, bank exchange, post office money order or express money order and shall be deposited by the department in the 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, except for fees charged by the department for the defraying of costs associated with shipping alcoholic beverages. The revenue derived from these fees shall be deposited by the department into a special fund, hereby created in the State Treasury, which is designated the "ABC Shipping Fund." The monies in this special fund shall be earmarked for use by the department for any expenditure made to ship alcoholic beverages. Any net proceeds remaining in the special fund on August 1 of any fiscal year shall lapse into the General Fund. "Net proceeds" in this section means the total of all fees collected by the



department to defray the costs of shipping less the actual costs of shipping.

(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 right to import and sell alcoholic beverages at wholesale within the state, and no person who is granted the right to sell, distribute or receive alcoholic beverages at retail shall purchase any alcoholic beverages from any source other than the department except as authorized in subsections (4), (9) and (12) of this section and Sections 1 through 9 of this act. The department may establish warehouses, purchase alcoholic beverages in such quantities and from such sources as it may deem desirable and sell the alcoholic beverages 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



437 and accurate record of all such transactions and exercising such  
438 control over the distribution of alcoholic beverages as seem right  
439 and proper in keeping with the provisions or purposes of this  
440 chapter.

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

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

451 (4) The department may promulgate rules and regulations  
452 which authorize on-premises retailers to purchase limited amounts  
453 of alcoholic beverages from package retailers and for package  
454 retailers to purchase limited amounts of alcoholic beverages from  
455 other package retailers. The department shall develop and provide  
456 forms to be completed by the on-premises retailers and the package  
457 retailers verifying the transaction. The completed forms shall be  
458 forwarded to the department within a period of time prescribed by  
459 the department.

460 (5) The department may promulgate rules which authorize the  
461 holder of a package retailer's permit to permit individual retail



462 purchasers of packages of alcoholic beverages to return, for  
463 exchange, credit or refund, limited amounts of original sealed and  
464 unopened packages of alcoholic beverages purchased by the  
465 individual from the package retailer.

466 (6) The department shall maintain all forms to be completed  
467 by applicants necessary for licensure by the department at all  
468 district offices of the department.

469 (7) The department may promulgate rules which authorize the  
470 manufacturer of an alcoholic beverage or wine to import, transport  
471 and furnish or give a sample of alcoholic beverages or wines to  
472 the holders of package retailer's permits, on-premises retailer's  
473 permits, native wine retailer's permits and temporary retailer's  
474 permits who have not previously purchased the brand of that  
475 manufacturer from the department. For each holder of the  
476 designated permits, the manufacturer may furnish not more than  
477 five hundred (500) milliliters of any brand of alcoholic beverage  
478 and not more than three (3) liters of any brand of wine.

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



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

498           (10) The department may promulgate rules facilitating a  
499 retailer's on-site pickup of native wines sold by the department,  
500 so that those wines may be delivered to the retailer at the native  
501 winery instead of via shipment from the department's warehouse.

502           (11) **[Through June 30, 2023]** This section shall not apply to  
503 alcoholic beverages authorized to be sold by the holder of a  
504 distillery retailer's permit or a festival wine permit.

505           (11) **[From and after July 1, 2023]** This section shall not  
506 apply to alcoholic beverages authorized to be sold by the holder  
507 of a distillery retailer's permit.

508           (12) (a) An individual resident of this state who is at  
509 least twenty-one (21) years of age may purchase wine from a winery  
510 and have the purchase shipped into this state so long as it is  
511 shipped to a package retailer permittee in Mississippi; however,



the permittee shall pay to the department all taxes, fees and surcharges on the wine that are imposed upon the sale of wine shipped by the department. No credit shall be provided to the permittee for any taxes paid to another state as a result of the transaction. Package retailers may charge a service fee for receiving and handling shipments from wineries on behalf of the purchasers. The department shall develop and provide forms to be completed by the package retailer permittees verifying the transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department.

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

(c) Shipments of wine into this state under this section shall be made by a duly licensed carrier. It shall be the duty of every common or contract carrier, and of every firm or corporation that shall bring, carry or transport wine from outside



537 the state for delivery inside the state to package retailer  
538 permittees on behalf of consumers, to prepare and file with the  
539 department, on a schedule as determined by the department, of  
540 known wine shipments containing the name of the common or contract  
541 carrier, firm or corporation making the report, the period of time  
542 covered by said report, the name and permit number of the winery,  
543 the name and permit number of the package retailer permittee  
544 receiving such wine, the weight of the package delivered to each  
545 package retailer permittee, a unique tracking number, and the date  
546 of delivery. Reports received by the department shall be made  
547 available by the department to the public via the Mississippi  
548 Public Records Act process in the same manner as other state  
549 alcohol filings.

550       Upon the department's request, any records supporting the  
551 report shall be made available to the department within a  
552 reasonable time after the department makes a written request for  
553 such records. Any records containing information relating to such  
554 reports shall be kept and preserved for a period of two (2) years,  
555 unless their destruction sooner is authorized, in writing, by the  
556 department, and shall be open and available to inspection by the  
557 department upon the department's written request. Reports shall  
558 also be made available to any law enforcement or regulatory body  
559 in the state in which the railroad company, express company,  
560 common or contract carrier making the report resides or does  
561 business.



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

(d) A winery that ships wine under this section shall be deemed to have consented to the jurisdiction of the courts of this state, of the department, of any other state agency regarding the enforcement of this section, and of any related law, rules or regulations.

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

(13) If any provision of this chapter, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the Legislature to further limit rather than expand commerce in alcoholic beverages to protect the health, safety, and welfare of the state's residents, and to enhance strict regulatory control over taxation, distribution and



587 sale of alcoholic beverages through the three-tier regulatory  
588 system imposed by this chapter upon all alcoholic beverages to  
589 curb relationships and practices calculated to stimulate sales and  
590 impair the state's policy favoring trade stability and the  
591 promotion of temperance.

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

594       67-1-45. No manufacturer, rectifier or distiller of  
595 alcoholic beverages shall sell or attempt to sell any such  
596 alcoholic beverages, except malt liquor, within the State of  
597 Mississippi, except to the department, or as provided in Section  
598 67-1-41, or pursuant to Section 67-1-51. A producer of native  
599 wine may sell native wines to the department or to consumers at  
600 the location of the native winery or its immediate vicinity. The  
601 holder of a direct wine shipper's permit may sell wines directly  
602 to residents in this state as authorized by Sections 1 through 9  
603 of this act.

604       Any violation of this section by any manufacturer, rectifier  
605 or distiller shall be punished by a fine of not less than Five  
606 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars  
607 (\$2,000.00), to which may be added imprisonment in the county jail  
608 not to exceed six (6) months.

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



611           67-1-51. (1) Permits which may be issued by the department  
612 shall be as follows:

613           (a) **Manufacturer's permit.** A manufacturer's permit  
614 shall permit the manufacture, importation in bulk, bottling and  
615 storage of alcoholic liquor and its distribution and sale to  
616 manufacturers holding permits under this chapter in this state and  
617 to persons outside the state who are authorized by law to purchase  
618 the same, and to sell as provided by this chapter.

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

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

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

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

632           (b) **Package retailer's permit.** Except as otherwise  
633 provided in this paragraph and Section 67-1-52, a package  
634 retailer's permit shall authorize the holder thereof to operate a  
635 store exclusively for the sale at retail in original sealed and



636 unopened packages of alcoholic beverages, including native wines,  
637 not to be consumed on the premises where sold. In addition, a  
638 holder of a package retailer's permit may sell at retail through  
639 the Internet and ship wine in original sealed and unopened  
640 packages to residents in this state and which is not to be  
641 consumed on the premises where sold. A holder of a package  
642 retailer's permit making such sales of wine shall (i) ensure that  
643 all containers of wine sold and shipped directly to a resident in  
644 this state are conspicuously labeled with the words "CONTAINS  
645 WINE: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR  
646 DELIVERY" and (ii) report to the department annually the total  
647 amount of wine sold and shipped within the state during the  
648 preceding calendar year. A holder of a package retailer's permit  
649 who sells wine through the Internet may not sell or ship any  
650 alcoholic beverage other than wine or ship wine to an address in a  
651 county that has not voted in favor of coming out from under the  
652 dry law. Alcoholic beverages shall not be sold by any retailer in  
653 any package or container containing less than fifty (50)  
654 milliliters by liquid measure. A package retailer's permit, with  
655 prior approval from the department, shall authorize the holder  
656 thereof to sample new product furnished by a manufacturer's  
657 representative or his employees at the permitted place of business  
658 so long as the sampling otherwise complies with this chapter and  
659 applicable department regulations. Such samples may not be  
660 provided to customers at the permitted place of business. In



661 addition to the sale at retail of packages of alcoholic beverages,  
662 the holder of a package retailer's permit is authorized to sell at  
663 retail corkscrews, wine glasses, soft drinks, ice, juices, mixers  
664 and other beverages commonly used to mix with alcoholic beverages.  
665 Nonalcoholic beverages sold by the holder of a package retailer's  
666 permit shall not be consumed on the premises where sold.

667           (c) **On-premises retailer's permit.** Except as otherwise  
668 provided in subsection (5) of this section, an on-premises  
669 retailer's permit shall authorize the sale of alcoholic beverages,  
670 including native wines, for consumption on the licensed premises  
671 only; however, a patron of the permit holder may remove one (1)  
672 bottle of wine from the licensed premises if: (i) the patron  
673 consumed a portion of the bottle of wine in the course of  
674 consuming a meal purchased on the licensed premises; (ii) the  
675 permit holder securely reseals the bottle; (iii) the bottle is  
676 placed in a bag that is secured in a manner so that it will be  
677 visibly apparent if the bag is opened; and (iv) a dated receipt  
678 for the wine and the meal is available. Additionally, as part of  
679 a carryout order, a permit holder may sell one (1) bottle of wine  
680 to be removed from the licensed premises for every two (2) entrees  
681 ordered. Such a permit shall be issued only to qualified hotels,  
682 restaurants and clubs, and to common carriers with adequate  
683 facilities for serving passengers. In resort areas, whether  
684 inside or outside of a municipality, the department, in its  
685 discretion, may issue on-premises retailer's permits to such



686 establishments as it deems proper. An on-premises retailer's  
687 permit when issued to a common carrier shall authorize the sale  
688 and serving of alcoholic beverages aboard any licensed vehicle  
689 while moving through any county of the state; however, the sale of  
690 such alcoholic beverages shall not be permitted while such vehicle  
691 is stopped in a county that has not legalized such sales. If an  
692 on-premises retailer's permit is applied for by a common carrier  
693 operating solely in the water, such common carrier must, along  
694 with all other qualifications for a permit, (i) be certified to  
695 carry at least one hundred fifty (150) passengers and/or provide  
696 overnight accommodations for at least fifty (50) passengers and  
697 (ii) operate primarily in the waters within the State of  
698 Mississippi which lie adjacent to the State of Mississippi south  
699 of the three (3) most southern counties in the State of  
700 Mississippi and/or on the Mississippi River or navigable waters  
701 within any county bordering on the Mississippi River.

702           (d) **Solicitor's permit.** A solicitor's permit shall  
703 authorize the holder thereof to act as salesman for a manufacturer  
704 or wholesaler holding a proper permit, to solicit on behalf of his  
705 employer orders for alcoholic beverages, and to otherwise promote  
706 his employer's products in a legitimate manner. Such a permit  
707 shall authorize the representation of and employment by one (1)  
708 principal only. However, the permittee may also, in the  
709 discretion of the department, be issued additional permits to  
710 represent other principals. No such permittee shall buy or sell



711 alcoholic beverages for his own account, and no such beverage  
712 shall be brought into this state in pursuance of the exercise of  
713 such permit otherwise than through a permit issued to a wholesaler  
714 or manufacturer in the state.

715           (e) **Native wine retailer's permit.** Except as otherwise  
716 provided in subsection (5) of this section, a native wine  
717 retailer's permit shall be issued only to a holder of a Class 3  
718 manufacturer's permit, and shall authorize the holder thereof to  
719 make retail sales of native wines to consumers for on-premises  
720 consumption or to consumers in originally sealed and unopened  
721 containers at an establishment located on the premises of or in  
722 the immediate vicinity of a native winery. When selling to  
723 consumers for on-premises consumption, a holder of a native wine  
724 retailer's permit may add to the native wine alcoholic beverages  
725 not produced on the premises, so long as the total volume of  
726 foreign beverage components does not exceed twenty percent (20%)  
727 of the mixed beverage. Hours of sale shall be the same as those  
728 authorized for on-premises permittees in the city or county in  
729 which the native wine retailer is located.

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



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

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary 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. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer



a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

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

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it



meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (1) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person



810 shall qualify as a caterer unless forty percent (40%) or more of  
811 the revenue derived from such catering business shall be from the  
812 serving of prepared food and not from the sale of alcoholic  
813 beverages and unless such person has obtained a permit for such  
814 business from the Department of Health. A caterer's permit shall  
815 not authorize the sale of alcoholic beverages on the premises of  
816 the person engaging in business as a caterer; however, the holder  
817 of an on-premises retailer's permit may hold a caterer's permit.  
818 When the holder of an on-premises retailer's permit or an  
819 affiliated entity of the holder also holds a caterer's permit, the  
820 caterer's permit shall not authorize the service of alcoholic  
821 beverages on a consistent, recurring basis at a separate, fixed  
822 location owned or operated by the caterer, on-premises retailer or  
823 affiliated entity and an on-premises retailer's permit shall be  
824 required for the separate location. All sales of alcoholic  
825 beverages by holders of a caterer's permit shall be made at the  
826 location being catered by the caterer, and, except as otherwise  
827 provided in subsection (5) of this section, such sales may be made  
828 only for consumption at the catered location. The location being  
829 catered may be anywhere within a county or judicial district that  
830 has voted to come out from under the dry laws or in which the sale  
831 and distribution of alcoholic beverages is otherwise authorized by  
832 law. Such sales shall be made pursuant to any other conditions  
833 and restrictions which apply to sales made by on-premises retail  
834 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.

(l) **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



885 exempt from taxation under Section 501(c)(3) or (4) of the  
886 Internal Revenue Code of 1986. The permit shall authorize the  
887 holder to sell alcoholic beverages for the limited purpose of  
888 raising funds for the organization during a live or silent auction  
889 that is conducted by the organization and that meets the following  
890 requirements: (i) the auction is conducted in an area of the  
891 state where the sale of alcoholic beverages is authorized; (ii) if  
892 the auction is conducted on the premises of an on-premises  
893 retailer's permit holder, then the alcoholic beverages to be  
894 auctioned must be stored separately from the alcoholic beverages  
895 sold, stored or served on the premises, must be removed from the  
896 premises immediately following the auction, and may not be  
897 consumed on the premises; (iii) the permit holder may not conduct  
898 more than two (2) auctions during a calendar year; (iv) the permit  
899 holder may not pay a commission or promotional fee to any person  
900 to arrange or conduct the auction.

901 (n) **Event venue retailer's permit.** An event venue  
902 retailer's permit shall authorize the holder thereof to purchase  
903 and resell alcoholic beverages, including native wines, for  
904 consumption on the premises during legal hours during events held  
905 on the licensed premises if food is being served at the event by a  
906 caterer who is not affiliated with or related to the permittee.  
907 The caterer must serve at least three (3) entrees. The permit may  
908 only be issued for venues that can accommodate two hundred (200)  
909 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



935 stock upon expiration of the temporary theatre permit may be  
936 returned by the permittee to the package retailer for a refund of  
937 the purchase price upon consent of the package retailer or may be  
938 kept by the permittee exclusively for personal use and  
939 consumption, subject to all laws pertaining to the illegal sale  
940 and possession of alcoholic beverages.

941 (p) **Charter ship operator's permit.** Subject to the  
942 provisions of this paragraph (p), a charter ship operator's permit  
943 shall authorize the holder thereof and its employees to serve,  
944 monitor, store and otherwise control the serving and availability  
945 of alcoholic beverages to customers of the permit holder during  
946 private charters under contract provided by the permit holder. A  
947 charter ship operator's permit shall authorize such action by the  
948 permit holder and its employees only as to alcoholic beverages  
949 brought onto the permit holder's ship by customers of the permit  
950 holder as part of such a private charter. All such alcoholic  
951 beverages must be removed from the charter ship at the conclusion  
952 of each private charter. A charter ship operator's permit shall  
953 not authorize the permit holder to sell, charge for or otherwise  
954 supply alcoholic beverages to customers, except as authorized in  
955 this paragraph (p). For the purposes of this paragraph (p),  
956 "charter ship operator" means a common carrier that (i) is  
957 certified to carry at least one hundred fifty (150) passengers  
958 and/or provide overnight accommodations for at least fifty (50)  
959 passengers, (ii) operates only in the waters within the State of



960 Mississippi, which lie adjacent to the State of Mississippi south  
961 of the three (3) most southern counties in the State of  
962 Mississippi, and (iii) provides charters under contract for tours  
963 and trips in such waters.

964           (q) **Distillery retailer's permit.** The holder of a  
965 Class 1 manufacturer's permit may obtain a distillery retailer's  
966 permit. A distillery retailer's permit shall authorize the holder  
967 thereof to sell at retail alcoholic beverages by the sealed and  
968 unopened bottle from a retail location at the distillery for  
969 off-premises consumption. The holder may only sell product  
970 manufactured by the manufacturer at the distillery described in  
971 the permit. The holder shall not sell at retail more than ten  
972 percent (10%) of the alcoholic beverages produced annually at its  
973 distillery. The holder shall not make retail sales of more than  
974 two and twenty-five one-hundredths (2.25) liters, in the  
975 aggregate, of the alcoholic beverages produced at its distillery  
976 to any one (1) individual for consumption off the premises of the  
977 distillery within a twenty-four-hour period. The hours of sale  
978 shall be the same as those hours for package retailers under this  
979 chapter. The holder of a distillery retailer's permit is not  
980 required to purchase the alcoholic beverages authorized to be sold  
981 by this paragraph from the department's liquor distribution  
982 warehouse; however, if the holder does not purchase the alcoholic  
983 beverages from the department's liquor distribution warehouse, the  
984 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) **Festival Wine Permit.** Any wine manufacturer or native wine producer permitted by Mississippi or any other state is eligible to obtain a Festival Wine Permit. This permit authorizes the entity to transport product manufactured by it to festivals held within the State of Mississippi and sell sealed, unopened bottles to festival participants. The holder of this permit may provide samples at no charge to participants.

"Festival" means any event at which three (3) or more vendors are present at a location for the sale or distribution of goods. The holder of a Festival Wine 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 of this permit shall pay to the department all taxes, fees and surcharges on the alcoholic beverages sold at such festivals that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue.



1010 Additionally, the entity shall file all applicable reports and  
1011 returns as prescribed by the department. This permit is issued  
1012 per festival and provides authority to sell for two (2)  
1013 consecutive days during the hours authorized for on-premises  
1014 permittees' sales in that county or city. The holder of the  
1015 permit shall be required to maintain all requirements set by Local  
1016 Option Law for the service and sale of alcoholic beverages. This  
1017 permit may be issued to entities participating in festivals at  
1018 which a Class 1 temporary permit is in effect.

1019 This paragraph (r) shall stand repealed from and after July  
1020 1, 2023.

1021 (s) **Direct wine shipper's permit.** A direct wine  
1022 shipper's permit shall authorize the holder to sell and ship a  
1023 limited amount of wine directly to residents in this state in  
1024 accordance with the provisions of Sections 1 through 9 of this  
1025 act, without being required to transact the sale and shipment of  
1026 those wines through the Alcoholic Beverage Control Division of the  
1027 department.

1028 (2) Except as otherwise provided in subsection (4) of this  
1029 section, retail permittees may hold more than one (1) retail  
1030 permit, at the discretion of the department.

1031 (3) Except as otherwise provided in this subsection, no  
1032 authority shall be granted to any person to manufacture, sell or  
1033 store for sale any intoxicating liquor as specified in this  
1034 chapter within four hundred (400) feet of any church, school,



1035 kindergarten or funeral home. However, within an area zoned  
1036 commercial or business, such minimum distance shall be not less  
1037 than one hundred (100) feet.

1038 A church or funeral home may waive the distance restrictions  
1039 imposed in this subsection in favor of allowing issuance by the  
1040 department of a permit, pursuant to subsection (1) of this  
1041 section, to authorize activity relating to the manufacturing, sale  
1042 or storage of alcoholic beverages which would otherwise be  
1043 prohibited under the minimum distance criterion. Such waiver  
1044 shall be in written form from the owner, the governing body, or  
1045 the appropriate officer of the church or funeral home having the  
1046 authority to execute such a waiver, and the waiver shall be filed  
1047 with and verified by the department before becoming effective.

1048 The distance restrictions imposed in this subsection shall  
1049 not apply to the sale or storage of alcoholic beverages at a bed  
1050 and breakfast inn listed in the National Register of Historic  
1051 Places or to the sale or storage of alcoholic beverages in a  
1052 historic district that is listed in the National Register of  
1053 Historic Places, is a qualified resort area and is located in a  
1054 municipality having a population greater than one hundred thousand  
1055 (100,000) according to the latest federal decennial census.

1056 (4) No person, either individually or as a member of a firm,  
1057 partnership, limited liability company or association, or as a  
1058 stockholder, officer or director in a corporation, shall own or  
1059 control any interest in more than \* \* \* three (3) package



1060 retailer's permit, nor shall such person's spouse, if living in  
1061 the same household of such person, any relative of such person, if  
1062 living in the same household of such person, or any other person  
1063 living in the same household with such person own any interest in  
1064 any other package retailer's permit which, when combined with the  
1065 number of package retailer's permits owned by the person or in  
1066 which the person has a controlling interest, would total more than  
1067 three (3) package retailer's permits.

1068       (5) (a) In addition to any other authority granted under  
1069 this section, the holder of a permit issued under subsection  
1070 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may  
1071 sell or otherwise provide alcoholic beverages and/or wine to a  
1072 patron of the permit holder in the manner authorized in the permit  
1073 and the patron may remove an open glass, cup or other container of  
1074 the alcoholic beverage and/or wine from the licensed premises and  
1075 may possess and consume the alcoholic beverage or wine outside of  
1076 the licensed premises if: (i) the licensed premises is located  
1077 within a leisure and recreation district created under Section  
1078 67-1-101 and (ii) the patron remains within the boundaries of the  
1079 leisure and recreation district while in possession of the  
1080 alcoholic beverage or wine.

1081       (b) Nothing in this subsection shall be construed to  
1082 allow a person to bring any alcoholic beverages into a permitted  
1083 premises except to the extent otherwise authorized by this  
1084 chapter.



1085           **SECTION 17.** Section 67-1-53, Mississippi Code of 1972, is  
1086 amended as follows:

1087           67-1-53. (1) Application for permits shall be in such form  
1088 and shall contain such information as shall be required by the  
1089 regulations of the \* \* \* department; however, no regulation of  
1090 the \* \* \* department shall require personal financial information  
1091 from any officer of a corporation applying for an on-premises  
1092 retailer's permit to sell alcoholic beverages unless such officer  
1093 owns ten percent (10%) or more of the stock of such corporation.

1094           (2) Every applicant for each type of permit authorized by  
1095 Section 67-1-51 shall give notice of such application by  
1096 publication for two (2) consecutive issues in a newspaper of  
1097 general circulation published in the city or town in which  
1098 applicant's place of business is located. However, in instances  
1099 where no newspaper is published in the city or town, then the  
1100 notice shall be published in a newspaper of general circulation  
1101 published in the county where the applicant's business is located.  
1102 If no newspaper is published in the county, the notice shall be  
1103 published in a qualified newspaper which is published in the  
1104 closest neighboring county and circulated in the county of  
1105 applicant's residence. The notice shall be printed in ten-point  
1106 black face type and shall set forth the type of permit to be  
1107 applied for, the exact location of the place of business, the name  
1108 of the owner or owners thereof, and if operating under an assumed  
1109 name, the trade name together with the names of all owners, and if



1110 a corporation, the names and titles of all officers. The cost of  
1111 such notice shall be borne by the applicant. The provisions of  
1112 this subsection (2) shall not apply to applicants for a direct  
1113 wine shipper's permit under Sections 1 through 9 of this act.

1114 (3) Each application or filing made under this section shall  
1115 include the social security number(s) of the applicant in  
1116 accordance with Section 93-11-64, Mississippi Code of 1972.

1117 **SECTION 18.** Section 67-1-55, Mississippi Code of 1972, is  
1118 amended as follows:

1119 67-1-55. No permit of any type shall be issued by the \* \* \*  
1120 department until the applicant has first filed with the \* \* \*  
1121 department a sworn statement disclosing all persons who are  
1122 financially involved in the operation of the business for which  
1123 the permit is sought. If an applicant is an individual, he will  
1124 swear that he owns one hundred percent (100%) of the business for  
1125 which he is seeking a permit. If the applicant is a partnership,  
1126 all partners and their addresses shall be disclosed and the extent  
1127 of their interest in the partnership shall be disclosed. If the  
1128 applicant is a corporation, the total stock in the corporation  
1129 shall be disclosed and each shareholder and his address and the  
1130 amount of stock in the corporation owned by him shall be  
1131 disclosed. If the applicant is a limited liability company, each  
1132 member and their addresses shall be disclosed and the extent of  
1133 their interest in the limited liability company shall be  
1134 disclosed. If the applicant is a trust, the trustee and all



beneficiaries and their addresses shall be disclosed. If the applicant is a combination of any of the above, all information required to be disclosed above shall be required.

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

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

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

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

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

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

(a) That the applicant, if an individual, or if a partnership, each of the members of the partnership, or if a corporation, each of its principal officers and directors, or if a



1160 limited liability company, each member of the limited liability  
1161 company, is of good moral character and, in addition, enjoys a  
1162 reputation of being a peaceable, law-abiding citizen of the  
1163 community in which he resides, and is generally fit for the trust  
1164 to be reposed in him, is not less than twenty-one (21) years of  
1165 age, and has not been convicted of a felony in any state or  
1166 federal court.

1167           (b) That, except in the case of an application for a  
1168 solicitor's permit, the applicant is the true and actual owner of  
1169 the business for which the permit is desired, and that he intends  
1170 to carry on the business authorized for himself and not as the  
1171 agent of any other person, and that he intends to superintend in  
1172 person the management of the business or that he will designate a  
1173 manager to manage the business for him. Except for managers  
1174 employed by the holder of a direct wine shipper's permit, all  
1175 managers must be approved by the department prior to completing  
1176 any managerial tasks on behalf of the permittee and must possess  
1177 all of the qualifications required of a permittee; however, a  
1178 felony conviction, other than a crime of violence, does not  
1179 automatically disqualify a person from being approved as a manager  
1180 if the person was released from incarceration at least three (3)  
1181 years prior to application for approval as a manager. A felony  
1182 conviction, other than a crime of violence, may be considered by  
1183 the department in determining whether all other qualifications are  
1184 met.



1185           (c) That the applicant for a package retailer's permit,  
1186 if an individual, is a resident of the State of Mississippi. If  
1187 the applicant is a partnership, each member of the partnership  
1188 must be a resident of the state. If the applicant is a limited  
1189 liability company, each member of the limited liability company  
1190 must be a resident of the state. If the applicant is a  
1191 corporation, the designated manager of the corporation must be a  
1192 resident of the state.

1193           (d) That the place for which the permit is to be issued  
1194 is an appropriate one considering the character of the premises  
1195 and the surrounding neighborhood.

1196           (e) That the place for which the permit is to be issued  
1197 is within the corporate limits of an incorporated municipality or  
1198 qualified resort area or club which comes within the provisions of  
1199 this chapter.

1200           (f) That the applicant is not indebted to the state for  
1201 any taxes, fees or payment of penalties imposed by any law of the  
1202 State of Mississippi or by any rule or regulation of the \* \* \*  
1203 department.

1204           (g) That the applicant is not in the habit of using  
1205 alcoholic beverages to excess and is not physically or mentally  
1206 incapacitated, and that the applicant has the ability to read and  
1207 write the English language.

1208           (h) That the \* \* \* department does not believe and has  
1209 no reason to believe that the applicant will sell or knowingly



1210 permit any agent, servant or employee to unlawfully sell liquor in  
1211 a dry area or in any other manner contrary to law.

1212 (i) That the applicant is not residentially domiciled  
1213 with any person whose permit or license has been cancelled for  
1214 cause within the twelve (12) months next preceding the date of the  
1215 present application for a permit.

1216 (j) That the \* \* \* department has not, in the exercise  
1217 of its discretion which is reserved and preserved to it, refused  
1218 to grant permits under the restrictions of this section, as well  
1219 as under any other pertinent provision of this chapter.

1220 (k) That there are not sufficient legal reasons to deny  
1221 a permit on the ground that the premises for which the permit is  
1222 sought has previously been operated, used or frequented for any  
1223 purpose or in any manner that is lewd, immoral or offensive to  
1224 public decency. In the granting or withholding of any permit to  
1225 sell alcoholic beverages at retail, the \* \* \* department in  
1226 forming its conclusions may give consideration to any  
1227 recommendations made in writing by the district or county attorney  
1228 or county, circuit or chancery judge of the county, or the sheriff  
1229 of the county, or the mayor or chief of police of an incorporated  
1230 city or town wherein the applicant proposes to conduct his  
1231 business and to any recommendations made by representatives of the  
1232 commission.

1233 (l) That the applicant and the applicant's key  
1234 employees, as determined by the \* \* \* department, do not have a



1235 disqualifying criminal record. In order to obtain a criminal  
1236 record history check, the applicant shall submit to the commission  
1237 a set of fingerprints from any local law enforcement agency for  
1238 each person for whom the records check is required. The \* \* \*  
1239 department shall forward the fingerprints to the Mississippi  
1240 Department of Public Safety. If no disqualifying record is  
1241 identified at the state level, the Department of Public Safety  
1242 shall forward the fingerprints to the Federal Bureau of  
1243 Investigation for a national criminal history record check. Costs  
1244 for processing the set or sets of fingerprints shall be borne by  
1245 the applicant. The department may waive the fingerprint  
1246 requirement in the case of an applicant for a direct wine  
1247 shipper's permit. The \* \* \* department shall not deny employment  
1248 to an employee of the applicant prior to the identification of a  
1249 disqualifying record or other disqualifying information.

1250 **SECTION 20.** Section 67-1-73, Mississippi Code of 1972, is  
1251 amended as follows:

1252 67-1-73. (1) Except as otherwise provided in subsection (3)  
1253 of this section, every manufacturer, including native wine  
1254 producers, within or without the state, and every other shipper of  
1255 alcoholic beverages who sells any alcoholic beverage, including  
1256 native wine, within the state, shall, at the time of making such  
1257 sale, file with the \* \* \* department a copy of the invoice of such  
1258 sale showing in detail the kind of alcoholic beverage sold, the  
1259 quantities of each, the size of the container and the weight of



1260 the contents, the alcoholic content, and the name and address of  
1261 the person to whom sold.

1262 (2) Except as otherwise provided in subsection (3) of this  
1263 section, every person transporting alcoholic beverages, including  
1264 native wine, within this state to a point within this state,  
1265 whether such transportation originates within or without this  
1266 state, shall, within five (5) days after delivery of such  
1267 shipment, furnish the \* \* \* department a copy of the bill of  
1268 lading or receipt, showing the name or consignor or consignee,  
1269 date, place received, destination, and quantity of alcoholic  
1270 beverages delivered. Upon failure to comply with the provisions  
1271 of this section, such person shall be deemed guilty of a  
1272 misdemeanor and, upon conviction, thereof shall be fined in the  
1273 sum of Fifty Dollars (\$50.00) for each offense.

1274 (3) Information regarding the sales, shipment, delivery and  
1275 transportation of wine in this state by the holder of a direct  
1276 wine shipper's permit under Sections 1 through 9 of this act shall  
1277 be in such form and content as prescribed by the department.

1278 **SECTION 21.** Section 97-31-47, Mississippi Code of 1972, is  
1279 amended as follows:

1280 97-31-47. It shall be unlawful for any transportation  
1281 company, or any agent, employee, or officer of such company, or  
1282 any other person, or corporation to transport into or deliver in  
1283 this state in any manner or by any means any spirituous, vinous,  
1284 malt, or other intoxicating liquors or drinks, or for any such



1285 person, company, or corporation to transport any spirituous, malt,  
1286 vinous, or intoxicating liquors or drinks from one place within  
1287 this state to another place within the state, or from one (1)  
1288 point within this state to any point without the state, except in  
1289 cases where this chapter, \* \* \* Section 67-9-1, or Sections 1  
1290 through 9 of this act authorizes the transportation.

1291 **SECTION 22.** Section 97-31-49, Mississippi Code of 1972, is  
1292 amended as follows:

1293 97-31-49. Except as otherwise provided in Sections 1 through  
1294 9 of this act, it shall be unlawful for any person, firm or  
1295 corporation in this state, in person, by letter, circular, or  
1296 other printed or written matter, or in any other manner, to  
1297 solicit or take order in this state for any liquors, bitters or  
1298 drinks prohibited by the laws of this state to be sold, bartered,  
1299 or otherwise disposed of. The inhibition of this section shall  
1300 apply to such liquors, bitters and drinks, whether the parties  
1301 intend that the same shall be shipped into this state from outside  
1302 of the state, or from one (1) point in this state to another point  
1303 in this state. If such order be in writing, parol evidence  
1304 thereof is admissible without producing or accounting for the  
1305 absence of the original; and the taking or soliciting of such  
1306 orders is within the inhibition of this section, although the  
1307 orders are subject to approval by some other person, and no part  
1308 of the price is paid, nor any part of the goods is delivered when  
1309 the order is taken.



1310           **SECTION 23.** Section 67-1-83, Mississippi Code of 1972, is  
1311 amended as follows:

1312           67-1-83. (1) It shall be unlawful for any permittee or  
1313 other person to sell or furnish any alcoholic beverage to any  
1314 person who is visibly intoxicated, or to any person who is known  
1315 to habitually drink alcoholic beverages to excess, or to any  
1316 person who is known to be an habitual user of narcotics or other  
1317 habit-forming drugs. Except as otherwise provided in Section  
1318 67-1-51(1)(b), it shall also be unlawful for the holder of any  
1319 package retailer's permit to sell any alcoholic beverages except  
1320 by delivery in person to the purchaser at the place of business of  
1321 the permittee.

1322           (2) It shall be unlawful for any permittee or other person  
1323 to sell or furnish any alcoholic beverage to any person to whom  
1324 the commission has, after investigation, decided to prohibit the  
1325 sale of those beverages because of an appeal to the commission so  
1326 to do by the husband, wife, father, mother, brother, sister,  
1327 child, or employer of the person. The interdiction in those cases  
1328 shall last until removed by the commission, but no person shall be  
1329 held to have violated this subsection unless he has been informed  
1330 by the commission, by registered letter, that it is forbidden to  
1331 sell to that individual or unless that fact is otherwise known to  
1332 the permittee or other person.

1333           (3) It shall be unlawful for any holder of a package  
1334 retailer's permit, or any employee or agent thereof, engaged



1335 solely in the business of package retail sales under this chapter  
1336 to sell or furnish any alcoholic beverage before 10:00 a.m. and  
1337 after 10:00 p.m. or to sell alcoholic beverages on \* \* \* Christmas  
1338 Day.

1339 (4) Any person who violates any of the provisions of this  
1340 section shall be guilty of a misdemeanor and, upon conviction,  
1341 shall be punished by a fine of not more than Five Hundred Dollars  
1342 (\$500.00) or by imprisonment in the county jail for a term of not  
1343 more than six (6) months, or by both that fine and imprisonment,  
1344 in the discretion of the court. In addition, the commission shall  
1345 immediately revoke the permit of any permittee who violates the  
1346 provisions of this section.

1347 **SECTION 24.** Section 67-1-67, Mississippi Code of 1972, is  
1348 brought forward as follows:

1349 67-1-67. No permit shall be transferred by the permittee to  
1350 any other person or any other place except with the written  
1351 consent of the commission upon a regular application therefor in  
1352 writing and upon consideration thereof as provided in this chapter  
1353 for an original application for a permit. The commission shall  
1354 not approve the transfer of the permit of any person against whom  
1355 there is pending in the courts or before the commission any charge  
1356 of keeping a disorderly house, or of violating this chapter or the  
1357 laws against gambling in this state or against whom there is  
1358 pending any proceedings for the revocation, suspension or  
1359 cancellation of the permit.



1360           **SECTION 25.** This act shall take effect and be in force from  
1361 and after July 1, 2021.

