

Senate Amendments to House Bill No. 997

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:

7 **SECTION 1.** Section 27-3-31, Mississippi Code of 1972, is
8 brought forward as follows:

9 27-3-31. (1) It shall specifically be the duty of the
10 Commissioner of Revenue, and he shall have power and authority:

11 (a) To adopt, amend or repeal those rules or
12 regulations necessary and proper to effectively administer the
13 Department of Revenue and implement the duties assigned to the
14 commissioner in this section and in any other statute as well as
15 any duties assigned to the Department of Revenue.

16 (b) To develop, implement and decide questions of
17 policy as it relates to the operation of the Department of Revenue
18 and/or any law which the commissioner or the Department of Revenue
19 is required to administer.

20 (c) To supervise and direct all administrative and
21 technical activities of the Department of Revenue.

22 (d) To organize the offices, bureaus and divisions of
23 the Department of Revenue.

24 (e) To coordinate the activities of the various
25 offices, bureaus and divisions of the Department of Revenue.

26 (f) To delegate such administrative functions, duties
27 or powers as he deems necessary to carry out the efficient
28 operation of the Department of Revenue.

29 (g) To make, execute and effectuate any and all
30 agreements or contracts, including contracts for the purchase of
31 goods and services, as are necessary.

32 (h) To enter into long-term or multiyear leases of real
33 property with other state agencies.

34 (i) To appeal any decision of the Board of Tax Appeals
35 that he determines should be appealed.

36 (j) To defend, pursue and/or appeal any suit or appeal
37 brought by or against the Department of Revenue and/or by or
38 against the Commissioner of Revenue in his official capacity.

39 (k) To confer with and advise assessing officers,
40 boards of supervisors and other county officers as to their duties
41 relative to ad valorem taxation under the law; and to advise them
42 in the collection, filing and preservation of data relative to
43 matters of assessment.

44 (l) To become familiar with property values and general
45 conditions in the counties of the state and to direct the
46 collection and preservation of data and information pertaining to
47 the quantity and value of property in each county in the state,
48 subject to assessment, necessary to enable the commissioner to
49 determine the assessed value of classes of property and whether

assessments comply with acceptable performance standards as required by Section 27-35-113.

(m) To direct the collection, preparation and preservation of data and information pertaining to the quantity, value and location of property belonging to railroads, persons, corporations and associations which is required to be assessed by the commissioner.

(n) To supervise and direct the preparation of forms for the assessment of property of railroads and public service corporations assessed by the commissioner, and the filing of their rolls or schedules of assessment.

(o) To determine the location of all property subject to assessment by the commissioner in the various counties of the state, the municipalities and taxing districts therein, and to ascertain and report as far as practicable the value and ownership of all such property.

(p) To keep informed of the work of the assessors and supervisors of the various counties of the state as required by Section 27-3-51, and to have charge of the details necessary to the equalization by the commissioner of assessments among the various counties pursuant to Section 27-35-113.

(q) To prepare all forms for tax lists, assessment rolls and perform other duties relating thereto.

(r) To prepare data and statistics relating to property assessments which are deemed advisable for publication or which may be required by the Legislature.

(s) To confer with assessors, supervisors and other local taxing officials who may have business with the Department of Revenue.

(t) To consider and approve or disapprove all orders of boards of supervisors granting homestead exemptions.

(u) To administer and enforce the "Local Option Alcoholic Beverage Control Law," being Section 67-1-1 et seq.

(v) To adopt and enforce rules and regulations prescribing the manner and method by which tax returns and documents may be filed with the Department of Revenue as provided under Section 27-3-83.

(2) The Commissioner of Revenue and any agent duly authorized by the commissioner are empowered to administer and certify oaths.

SECTION 2. Section 67-1-37, Mississippi Code of 1972, is brought forward as follows:

67-1-37. The Department of Revenue, under its duties and powers with respect to the Alcoholic Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this chapter, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the department issued hereunder, or for

other sufficient cause, any permit issued by it under the provisions of this chapter. The department shall also be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcoholic beverages.

(e) To issue rules regulating the advertising of alcoholic beverages in the state in any class of media and permitting advertising of the retail price of alcoholic beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring

128 informative labeling of all alcoholic beverages offered for sale
129 within this state and providing for the standards of fill and
130 shapes of retail containers of alcoholic beverages; however, such
131 containers shall not contain less than fifty (50) milliliters by
132 liquid measure.

133 (g) Subject to the provisions of subsection (3) of
134 Section 67-1-51, to issue rules and regulations governing the
135 issuance of retail permits for premises located near or around
136 schools, colleges, universities, churches and other public
137 institutions, and specifying the distances therefrom within which
138 no such permit shall be issued. The Alcoholic Beverage Control
139 Division shall not issue a package retailer's or on-premises
140 retailer's permit for the sale or consumption of alcoholic
141 beverages in or on the campus of any public school, community or
142 junior college, college or university.

143 (h) To adopt and promulgate, repeal and amend, such
144 rules, regulations, standards, requirements and orders, not
145 inconsistent with this chapter or any law of this state or of the
146 United States, as it deems necessary to control the manufacture,
147 importation, transportation, distribution and sale of alcoholic
148 liquor, whether intended for beverage or nonbeverage use in a
149 manner not inconsistent with the provisions of this chapter or any
150 other statute, including the native wine laws.

151 (i) To call upon other administrative departments of
152 the state, county and municipal governments, county and city
153 police departments and upon prosecuting officers for such

information and assistance as it may deem necessary in the performance of its duties.

(j) To prepare and submit to the Governor during the month of January of each year a detailed report of its official acts during the preceding fiscal year ending June 30, including such recommendations as it may see fit to make, and to transmit a like report to each member of the Legislature of this state upon the convening thereof at its next regular session.

(k) To inspect, or cause to be inspected, any premises where alcoholic liquors intended for sale are manufactured, stored, distributed or sold, and to examine or cause to be examined all books and records pertaining to the business conducted therein.

(l) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him to the Legislature of this state such amendments to this chapter, if any, as it may think desirable.

(m) To designate hours and days when alcoholic beverages may be sold in different localities in the state which permit such sale.

(n) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcoholic beverages and to take any other action concerning persons employed under this chapter as authorized by law and taken in accordance

with the rules, regulations and procedures of the State Personnel Board.

(o) To enforce the provisions made unlawful by Chapter 3, Title 67 and Section 97-5-49.

(p) To delegate its authority under this chapter to the Alcoholic Beverage Control Division, its director or any other officer or employee of the department that it deems appropriate.

(q) To prescribe and charge a fee to defray the costs of shipping alcoholic beverages, provided that such fee is determined in a manner provided by the department by rules and/or regulations adopted in accordance with the Mississippi Administrative Procedures Law.

SECTION 3. Section 67-1-41, Mississippi Code of 1972, is brought forward 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. 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 and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this chapter.

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

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

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

230 (5) The department may promulgate rules which authorize the
231 holder of a package retailer's permit to permit individual retail
232 purchasers of packages of alcoholic beverages to return, for
233 exchange, credit or refund, limited amounts of original sealed and
234 unopened packages of alcoholic beverages purchased by the
235 individual from the package retailer.

236 (6) The department shall maintain all forms to be completed
237 by applicants necessary for licensure by the department at all
238 district offices of the department.

239 (7) The department may promulgate rules which authorize the
240 manufacturer of an alcoholic beverage or wine to import, transport
241 and furnish or give a sample of alcoholic beverages or wines to
242 the holders of package retailer's permits, on-premises retailer's
243 permits, native wine retailer's permits and temporary retailer's
244 permits who have not previously purchased the brand of that
245 manufacturer from the department. For each holder of the
246 designated permits, the manufacturer may furnish not more than
247 five hundred (500) milliliters of any brand of alcoholic beverage
248 and not more than three (3) liters of any brand of wine.

249 (8) The department may promulgate rules disallowing open
250 product sampling of alcoholic beverages or wines by the holders of
251 package retailer's permits and permitting open product sampling of
252 alcoholic beverages by the holders of on-premises retailer's
253 permits. Permitted sample products shall be plainly identified
254 "sample" and the actual sampling must occur in the presence of the

255 manufacturer's representatives during the legal operating hours of
256 on-premises retailers.

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

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

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

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

278 (12) (a) An individual resident of this state who is at
279 least twenty-one (21) years of age may purchase wine from a winery
280 and have the purchase shipped into this state so long as it is

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

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

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

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

Upon the department's request, any records supporting the report shall be made available to the department within a reasonable time after the department makes a written request for such records. Any records containing information relating to such reports shall be kept and preserved for a period of two (2) years, unless their destruction sooner is authorized, in writing, by the department, and shall be open and available to inspection by the department upon the department's written request. Reports shall also be made available to any law enforcement or regulatory body in the state in which the railroad company, express company, common or contract carrier making the report resides or does 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 sale of alcoholic beverages through the three-tier regulatory

system imposed by this chapter upon all alcoholic beverages to curb relationships and practices calculated to stimulate sales and impair the state's policy favoring trade stability and the promotion of temperance.

SECTION 4. Section 67-1-43, Mississippi Code of 1972, is brought forward as follows:

67-1-43. Any authorized retail distributor who shall purchase or receive intoxicating liquor from any source except from the department, unless authorized by rules and regulations of the department promulgated under Section 67-1-41, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to which may be added imprisonment in the county jail for not more than six (6) months. Any authorization of such person to sell intoxicating beverages may be revoked as provided by law.

SECTION 5. Section 67-1-45, Mississippi Code of 1972, is brought forward as follows:

67-1-45. No manufacturer, rectifier or distiller of alcoholic beverages shall sell or attempt to sell any such alcoholic beverages, except malt liquor, within the State of Mississippi, except to the department, or as provided in Section 67-1-41, or pursuant to Section 67-1-51. A producer of native wine may sell native wines to the department or to consumers at the location of the native winery or its immediate vicinity.

383 Any violation of this section by any manufacturer, rectifier
384 or distiller shall be punished by a fine of not less than Five
385 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
386 (\$2,000.00), to which may be added imprisonment in the county jail
387 not to exceed six (6) months.

388 **SECTION 6.** The Legislature shall appropriate funds for
389 necessary upgrades to the Alcoholic Beverage Control Division
390 warehouse.

391 **SECTION 7.** This act shall take effect and be in force from
392 and after July 1, 2021, and shall stand repealed on June 30, 2021.

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

1 AN ACT TO BRING FORWARD SECTIONS 27-3-31, 67-1-37, 67-1-41,
2 67-1-43 AND 67-1-45, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
3 POSSIBLE AMENDMENT; TO PROVIDE THAT THE LEGISLATURE SHALL
4 APPROPRIATE FUNDS FOR NECESSARY UPGRADES TO THE ALCOHOLIC BEVERAGE
5 CONTROL DIVISION WAREHOUSE; AND FOR RELATED PURPOSES.

SS26\HB997A.J

Eugene S. Clarke
Secretary of the Senate