

By: Representatives McGee, Faulkner, Karriem To: Ways and Means

HOUSE BILL NO. 918

1 AN ACT TO CREATE A FOOD TRUCK PERMIT UNDER THE LOCAL OPTION
2 ALCOHOLIC BEVERAGE CONTROL LAW TO AUTHORIZE THE HOLDER OF AN
3 ON-PREMISES RETAILER'S PERMIT TO USE A FOOD TRUCK TO SELL
4 ALCOHOLIC BEVERAGES OFF ITS PREMISES TO GUESTS WHO MUST CONSUME
5 THE BEVERAGES IN OPEN CONTAINERS; TO DEFINE THE TERM "FOOD TRUCK";
6 TO PROVIDE THAT FOOD TRUCKS MUST MAINTAIN SUCH DISTANCE
7 REQUIREMENTS FROM SCHOOLS, CHURCHES, KINDERGARTENS AND FUNERAL
8 HOMES AS ARE REQUIRED FOR ON-PREMISES RETAILER'S PERMITTEES AND
9 THAT SALES MUST BE MADE WITHIN A VALID LEISURE AND RECREATION
10 DISTRICT; TO PROVIDE THAT FOOD TRUCKS CANNOT SELL OR SERVE
11 ALCOHOLIC BEVERAGES UNLESS ALSO OFFERING FOOD PREPARED AND COOKED
12 WITHIN THE FOOD TRUCK AND PERMITTEES MUST MAINTAIN A 25% FOOD SALE
13 REVENUE REQUIREMENT BASED ON THE FOOD SOLD FROM A FOOD TRUCK
14 ALONE; TO PROVIDE THAT A FOOD TRUCK PERMIT HOLDER MUST PROVIDE
15 NOTICE OF NOT LESS THAN 48 HOURS TO THE DEPARTMENT OF REVENUE OF
16 EACH LOCATION AT WHICH ALCOHOLIC BEVERAGES WILL BE SOLD; TO AMEND
17 SECTION 27-71-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
18 PRIVILEGE TAX REQUIRED FOR THE ISSUANCE OF A FOOD TRUCK PERMIT;
19 AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 67-1-51, Mississippi Code of 1972, is
22 amended as follows:

23 67-1-51. (1) Permits which may be issued by the department
24 shall be as follows:

25 (a) **Manufacturer's permit.** A manufacturer's permit
26 shall permit the manufacture, importation in bulk, bottling and



27 storage of alcoholic liquor and its distribution and sale to
28 manufacturers holding permits under this chapter in this state and
29 to persons outside the state who are authorized by law to purchase
30 the same, and to sell as provided by this chapter.

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

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

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

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

44 Class 4. Native spirit producer's permit, which shall
45 authorize the holder thereof to produce, bottle, store and sell
46 native spirits.

47 (b) **Package retailer's permit.** Except as otherwise
48 provided in this paragraph and Section 67-1-52, a package
49 retailer's permit shall authorize the holder thereof to operate a
50 store exclusively for the sale at retail in original sealed and
51 unopened packages of alcoholic beverages, including native wines



52 and native spirits, not to be consumed on the premises where sold.
53 Alcoholic beverages shall not be sold by any retailer in any
54 package or container containing less than fifty (50) milliliters
55 by liquid measure. A package retailer's permit, with prior
56 approval from the department, shall authorize the holder thereof
57 to sample new product furnished by a manufacturer's representative
58 or his employees at the permitted place of business so long as the
59 sampling otherwise complies with this chapter and applicable
60 department regulations. Such samples may not be provided to
61 customers at the permitted place of business. In addition to the
62 sale at retail of packages of alcoholic beverages, the holder of a
63 package retailer's permit is authorized to sell at retail
64 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
65 other beverages commonly used to mix with alcoholic beverages.
66 Nonalcoholic beverages sold by the holder of a package retailer's
67 permit shall not be consumed on the premises where sold.

68 (c) **On-premises retailer's permit.** Except as otherwise
69 provided in subsection (5) of this section, an on-premises
70 retailer's permit shall authorize the sale of alcoholic beverages,
71 including native wines and native spirits, for consumption on the
72 licensed premises only; however, a patron of the permit holder may
73 remove one (1) bottle of wine from the licensed premises if: (i)
74 the patron consumed a portion of the bottle of wine in the course
75 of consuming a meal purchased on the licensed premises; (ii) the
76 permit holder securely reseals the bottle; (iii) the bottle is



77 placed in a bag that is secured in a manner so that it will be
78 visibly apparent if the bag is opened; and (iv) a dated receipt
79 for the wine and the meal is available. Additionally, as part of
80 a carryout order, a permit holder may sell one (1) bottle of wine
81 to be removed from the licensed premises for every two (2) entrees
82 ordered. Such a permit shall be issued only to qualified hotels,
83 restaurants and clubs, small craft breweries, microbreweries, and
84 to common carriers with adequate facilities for serving
85 passengers. In resort areas, whether inside or outside of a
86 municipality, the department, in its discretion, may issue
87 on-premises retailer's permits to such establishments as it deems
88 proper. An on-premises retailer's permit when issued to a common
89 carrier shall authorize the sale and serving of alcoholic
90 beverages aboard any licensed vehicle while moving through any
91 county of the state; however, the sale of such alcoholic beverages
92 shall not be permitted while such vehicle is stopped in a county
93 that has not legalized such sales. If an on-premises retailer's
94 permit is applied for by a common carrier operating solely in the
95 water, such common carrier must, along with all other
96 qualifications for a permit, (i) be certified to carry at least
97 one hundred fifty (150) passengers and/or provide overnight
98 accommodations for at least fifty (50) passengers and (ii) operate
99 primarily in the waters within the State of Mississippi which lie
100 adjacent to the State of Mississippi south of the three (3) most
101 southern counties in the State of Mississippi and/or on the



102 Mississippi River or navigable waters within any county bordering
103 on the Mississippi River.

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

117 (e) **Native wine retailer's permit.** Except as otherwise
118 provided in subsection (5) of this section, a native wine
119 retailer's permit shall be issued only to a holder of a Class 3
120 manufacturer's permit, and shall authorize the holder thereof to
121 make retail sales of native wines to consumers for on-premises
122 consumption or to consumers in originally sealed and unopened
123 containers at an establishment located on the premises of or in
124 the immediate vicinity of a native winery. When selling to
125 consumers for on-premises consumption, a holder of a native wine
126 retailer's permit may add to the native wine alcoholic beverages



127 not produced on the premises, so long as the total volume of
128 foreign beverage components does not exceed twenty percent (20%)
129 of the mixed beverage. Hours of sale shall be the same as those
130 authorized for on-premises permittees in the city or county in
131 which the native wine retailer is located.

132 (f) **Temporary retailer's permit.** Except as otherwise
133 provided in subsection (5) of this section, a temporary retailer's
134 permit shall permit the purchase and resale of alcoholic
135 beverages, including native wines and native spirits, during legal
136 hours on the premises described in the temporary permit only.

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

139 Class 1. A temporary one-day permit may be issued to bona
140 fide nonprofit civic or charitable organizations authorizing the
141 sale of alcoholic beverages, including native wine and native
142 spirit, for consumption on the premises described in the temporary
143 permit only. Class 1 permits may be issued only to applicants
144 demonstrating to the department, by a statement signed under
145 penalty of perjury submitted ten (10) days prior to the proposed
146 date or such other time as the department may determine, that they
147 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
148 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
149 Class 1 permittees shall obtain all alcoholic beverages from
150 package retailers located in the county in which the temporary
151 permit is issued. Alcoholic beverages remaining in stock upon



152 expiration of the temporary permit may be returned by the
153 permittee to the package retailer for a refund of the purchase
154 price upon consent of the package retailer or may be kept by the
155 permittee exclusively for personal use and consumption, subject to
156 all laws pertaining to the illegal sale and possession of
157 alcoholic beverages. The department, following review of the
158 statement provided by the applicant and the requirements of the
159 applicable statutes and regulations, may issue the permit.

160 Class 2. A temporary permit, not to exceed seventy (70)
161 days, may be issued to prospective permittees seeking to transfer
162 a permit authorized in paragraph (c) of this subsection. A Class
163 2 permit may be issued only to applicants demonstrating to the
164 department, by a statement signed under the penalty of perjury,
165 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
166 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
167 67-1-59. The department, following a preliminary review of the
168 statement provided by the applicant and the requirements of the
169 applicable statutes and regulations, may issue the permit.

170 Class 2 temporary permittees must purchase their alcoholic
171 beverages directly from the department or, with approval of the
172 department, purchase the remaining stock of the previous
173 permittee. If the proposed applicant of a Class 1 or Class 2
174 temporary permit falsifies information contained in the
175 application or statement, the applicant shall never again be



176 eligible for a retail alcohol beverage permit and shall be subject
177 to prosecution for perjury.

178 Class 3. A temporary one-day permit may be issued to a
179 retail establishment authorizing the complimentary distribution of
180 wine, including native wine, to patrons of the retail
181 establishment at an open house or promotional event, for
182 consumption only on the premises described in the temporary
183 permit. A Class 3 permit may be issued only to an applicant
184 demonstrating to the department, by a statement signed under
185 penalty of perjury submitted ten (10) days before the proposed
186 date or such other time as the department may determine, that it
187 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
188 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
189 A Class 3 permit holder shall obtain all alcoholic beverages from
190 the holder(s) of a package retailer's permit located in the county
191 in which the temporary permit is issued. Wine remaining in stock
192 upon expiration of the temporary permit may be returned by the
193 Class 3 temporary permit holder to the package retailer for a
194 refund of the purchase price, with consent of the package
195 retailer, or may be kept by the Class 3 temporary permit holder
196 exclusively for personal use and consumption, subject to all laws
197 pertaining to the illegal sale and possession of alcoholic
198 beverages. The department, following review of the statement
199 provided by the applicant and the requirements of the applicable
200 statutes and regulations, may issue the permit. No retailer may



201 receive more than twelve (12) Class 3 temporary permits in a
202 calendar year. A Class 3 temporary permit shall not be issued to
203 a retail establishment that either holds a merchant permit issued
204 under paragraph (1) of this subsection, or holds a permit issued
205 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
206 the holder to engage in the business of a retailer of light wine
207 or beer.

208 (g) **Caterer's permit.** A caterer's permit shall permit
209 the purchase of alcoholic beverages by a person engaging in
210 business as a caterer and the resale of alcoholic beverages by
211 such person in conjunction with such catering business. No person
212 shall qualify as a caterer unless forty percent (40%) or more of
213 the revenue derived from such catering business shall be from the
214 serving of prepared food and not from the sale of alcoholic
215 beverages and unless such person has obtained a permit for such
216 business from the Department of Health. A caterer's permit shall
217 not authorize the sale of alcoholic beverages on the premises of
218 the person engaging in business as a caterer; however, the holder
219 of an on-premises retailer's permit may hold a caterer's permit.
220 When the holder of an on-premises retailer's permit or an
221 affiliated entity of the holder also holds a caterer's permit, the
222 caterer's permit shall not authorize the service of alcoholic
223 beverages on a consistent, recurring basis at a separate, fixed
224 location owned or operated by the caterer, on-premises retailer or
225 affiliated entity and an on-premises retailer's permit shall be



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

247 (h) **Research permit.** A research permit shall authorize
248 the holder thereof to operate a research facility for the
249 professional research of alcoholic beverages. Such permit shall
250 authorize the holder of the permit to import and purchase limited



251 amounts of alcoholic beverages from the department or from
252 importers, wineries and distillers of alcoholic beverages for
253 professional research.

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

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

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



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

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



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

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

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



326 501(c) (3) or (4) of the Internal Revenue Code and owns or operates
327 a theatre facility that features plays and other theatrical
328 performances and productions. Except as otherwise provided in
329 subsection (5) of this section, the permit shall authorize the
330 holder to sell alcoholic beverages, including native wines and
331 native spirits, to patrons of the theatre during performances and
332 productions at the theatre facility for consumption during such
333 performances and productions on the premises of the facility
334 described in the permit. A temporary theatre permit holder shall
335 obtain all alcoholic beverages from package retailers located in
336 the county in which the permit is issued. Alcoholic beverages
337 remaining in stock upon expiration of the temporary theatre permit
338 may be returned by the permittee to the package retailer for a
339 refund of the purchase price upon consent of the package retailer
340 or may be kept by the permittee exclusively for personal use and
341 consumption, subject to all laws pertaining to the illegal sale
342 and possession of alcoholic beverages.

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



351 brought onto the permit holder's ship by customers of the permit
352 holder as part of such a private charter. All such alcoholic
353 beverages must be removed from the charter ship at the conclusion
354 of each private charter. A charter ship operator's permit shall
355 not authorize the permit holder to sell, charge for or otherwise
356 supply alcoholic beverages to customers, except as authorized in
357 this paragraph (p). For the purposes of this paragraph (p),
358 "charter ship operator" means a common carrier that (i) is
359 certified to carry at least one hundred fifty (150) passengers
360 and/or provide overnight accommodations for at least fifty (50)
361 passengers, (ii) operates only in the waters within the State of
362 Mississippi, which lie adjacent to the State of Mississippi south
363 of the three (3) most southern counties in the State of
364 Mississippi, and (iii) provides charters under contract for tours
365 and trips in such waters.

366 (q) **Distillery retailer's permit.** The holder of a
367 Class 1 manufacturer's permit may obtain a distillery retailer's
368 permit. A distillery retailer's permit shall authorize the holder
369 thereof to sell at retail alcoholic beverages to consumers for
370 on-premises consumption, or to consumers by the sealed and
371 unopened bottle from a retail location at the distillery for
372 off-premises consumption. The holder may only sell product
373 manufactured by the manufacturer at the distillery described in
374 the permit. However, when selling to consumers for on-premises
375 consumption, a holder of a distillery retailer's permit may add



376 other beverages, alcoholic or not, so long as the total volume of
377 other beverage components containing alcohol does not exceed
378 twenty percent (20%). Hours of sale shall be the same as those
379 authorized for on-premises permittees in the city or county in
380 which the distillery retailer is located.

381 The holder shall not sell at retail more than ten percent
382 (10%) of the alcoholic beverages produced annually at its
383 distillery. The holder shall not make retail sales of more than
384 two and twenty-five one-hundredths (2.25) liters, in the
385 aggregate, of the alcoholic beverages produced at its distillery
386 to any one (1) individual for consumption off the premises of the
387 distillery within a twenty-four-hour period. The hours of sale
388 shall be the same as those hours for package retailers under this
389 chapter. The holder of a distillery retailer's permit is not
390 required to purchase the alcoholic beverages authorized to be sold
391 by this paragraph from the department's liquor distribution
392 warehouse; however, if the holder does not purchase the alcoholic
393 beverages from the department's liquor distribution warehouse, the
394 holder shall pay to the department all taxes, fees and surcharges
395 on the alcoholic beverages that are imposed upon the sale of
396 alcoholic beverages shipped by the Alcoholic Beverage Control
397 Division of the Department of Revenue. In addition to alcoholic
398 beverages, the holder of a distillery retailer's permit may sell
399 at retail promotional products from the same retail location,



400 including shirts, hats, glasses, and other promotional products
401 customarily sold by alcoholic beverage manufacturers.

402 (r) **Festival Wine Permit.** Any wine manufacturer or
403 native wine producer permitted by Mississippi or any other state
404 is eligible to obtain a Festival Wine Permit. This permit
405 authorizes the entity to transport product manufactured by it to
406 festivals held within the State of Mississippi and sell sealed,
407 unopened bottles to festival participants. The holder of this
408 permit may provide samples at no charge to participants.
409 "Festival" means any event at which three (3) or more vendors are
410 present at a location for the sale or distribution of goods. The
411 holder of a Festival Wine Permit is not required to purchase the
412 alcoholic beverages authorized to be sold by this paragraph from
413 the department's liquor distribution warehouse. However, if the
414 holder does not purchase the alcoholic beverages from the
415 department's liquor distribution warehouse, the holder of this
416 permit shall pay to the department all taxes, fees and surcharges
417 on the alcoholic beverages sold at such festivals that are imposed
418 upon the sale of alcoholic beverages shipped by the Alcoholic
419 Beverage Control Division of the Department of Revenue.
420 Additionally, the entity shall file all applicable reports and
421 returns as prescribed by the department. This permit is issued
422 per festival and provides authority to sell for two (2)
423 consecutive days during the hours authorized for on-premises
424 permittees' sales in that county or city. The holder of the



425 permit shall be required to maintain all requirements set by Local
426 Option Law for the service and sale of alcoholic beverages. This
427 permit may be issued to entities participating in festivals at
428 which a Class 1 temporary permit is in effect.

429 This paragraph (r) shall stand repealed from and after July
430 1, 2023.

431 (s) **Charter vessel operator's permit.** Subject to the
432 provisions of this paragraph (s), a charter vessel operator's
433 permit shall authorize the holder thereof and its employees to
434 sell and serve alcoholic beverages to passengers of the permit
435 holder during public tours, historical tours, ecological tours and
436 sunset cruises provided by the permit holder. The permit shall
437 authorize the holder to only sell alcoholic beverages, including
438 native wines, to passengers of the charter vessel operator during
439 public tours, historical tours, ecological tours and sunset
440 cruises provided by the permit holder aboard the charter vessel
441 operator for consumption during such tours and cruises on the
442 premises of the charter vessel operator described in the permit.
443 For the purposes of this paragraph (s), "charter vessel operator"
444 means a common carrier that (i) is certified to carry at least
445 forty-nine (49) passengers, (ii) operates only in the waters
446 within the State of Mississippi, which lie south of Interstate 10
447 in the three (3) most southern counties in the State of
448 Mississippi, and lie adjacent to the State of Mississippi south of
449 the three (3) most southern counties in the State of Mississippi,



450 extending not further than one (1) mile south of such counties,
451 and (iii) provides vessel services for tours and cruises in such
452 waters as provided in this paragraph (s).

453 (t) **Native spirit retailer's permit.** Except as
454 otherwise provided in subsection (5) of this section, a native
455 spirit retailer's permit shall be issued only to a holder of a
456 Class 4 manufacturer's permit, and shall authorize the holder
457 thereof to make retail sales of native spirits to consumers for
458 on-premises consumption or to consumers in originally sealed and
459 unopened containers at an establishment located on the premises of
460 or in the immediate vicinity of a native distillery. When selling
461 to consumers for on-premises consumption, a holder of a native
462 spirit retailer's permit may add to the native spirit alcoholic
463 beverages not produced on the premises, so long as the total
464 volume of foreign beverage components does not exceed twenty
465 percent (20%) of the mixed beverage. Hours of sale shall be the
466 same as those authorized for on-premises permittees in the city or
467 county in which the native spirit retailer is located.

468 (u) **Delivery service permit.** Any individual, limited
469 liability company, corporation or partnership registered to do
470 business in this state is eligible to obtain a delivery service
471 permit. Subject to the provisions of Section 67-1-51.1, this
472 permit authorizes the permittee, or its employee or an independent
473 contractor acting on its behalf, to deliver alcoholic beverages,
474 beer, light wine and light spirit product from a licensed retailer



475 to a person in this state who is at least twenty-one (21) years of
476 age for the individual's use and not for resale. This permit does
477 not authorize the delivery of alcoholic beverages, beer, light
478 wine or light spirit product to the premises of a location with a
479 permit for the manufacture, distribution or retail sale of
480 alcoholic beverages, beer, light wine or light spirit product.
481 The holder of a package retailer's permit or an on-premises
482 retailer's permit under Section 67-1-51 or of a beer, light wine
483 and light spirit product permit under Section 67-3-19 is
484 authorized to apply for a delivery service permit as a privilege
485 separate from its existing retail permit.

486 (v) **Food truck permit.** A food truck permit shall
487 authorize the holder of an on-premises retailer's permit to use a
488 food truck to sell alcoholic beverages off its premises to guests
489 who must consume the beverages in open containers. For the
490 purposes of this paragraph (v), "food truck" means a fully encased
491 food service establishment on a motor vehicle or on a trailer that
492 a motor vehicle pulls to transport, and from which a vendor,
493 standing within the frame of the establishment, prepares, cooks,
494 sells and serves food for immediate human consumption. The term
495 "food truck" does not include a food cart that is not motorized.
496 Food trucks shall maintain such distance requirements from
497 schools, churches, kindergartens and funeral homes as are required
498 for on-premises retailer's permittees under this chapter, and all
499 sales must be made within a valid leisure and recreation district



500 established under Section 67-1-101. Food trucks cannot sell or
501 serve alcoholic beverages unless also offering food prepared and
502 cooked within the food truck, and permittees must maintain a
503 twenty-five percent (25%) food sale revenue requirement based on
504 the food sold from the food truck alone. The hours allowed for
505 sale shall be the same as those for on-premises retailer's
506 permittees in the location. This permit will not be required for
507 the holder of a caterer's permit issued under this chapter to
508 cater an event as allowed by law. Permittees must provide notice
509 of not less than forty-eight (48) hours to the department of each
510 location at which alcoholic beverages will be sold.

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

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

521 (b) A church or funeral home may waive the distance
522 restrictions imposed in this subsection in favor of allowing
523 issuance by the department of a permit, pursuant to subsection (1)
524 of this section, to authorize activity relating to the



525 manufacturing, sale or storage of alcoholic beverages which would
526 otherwise be prohibited under the minimum distance criterion.
527 Such waiver shall be in written form from the owner, the governing
528 body, or the appropriate officer of the church or funeral home
529 having the authority to execute such a waiver, and the waiver
530 shall be filed with and verified by the department before becoming
531 effective.

532 (c) The distance restrictions imposed in this
533 subsection shall not apply to the sale or storage of alcoholic
534 beverages at a bed and breakfast inn listed in the National
535 Register of Historic Places or to the sale or storage of alcoholic
536 beverages in a historic district that is listed in the National
537 Register of Historic Places, is a qualified resort area and is
538 located in a municipality having a population greater than one
539 hundred thousand (100,000) according to the latest federal
540 decennial census.

541 (d) The distance restrictions imposed in this
542 subsection shall not apply to the sale or storage of alcoholic
543 beverages at a qualified resort area as defined in Section
544 67-1-5(o)(iii)32.

545 (e) The distance restrictions imposed in this
546 subsection shall not apply to the sale or storage of alcoholic
547 beverages at a licensed premises in a building formerly owned by a
548 municipality and formerly leased by the municipality to a



549 municipal school district and used by the municipal school
550 district as a district bus shop facility.

551 (f) The distance restrictions imposed in this
552 subsection shall not apply to the sale or storage of alcoholic
553 beverages at a licensed premises in a building consisting of at
554 least five thousand (5,000) square feet and located approximately
555 six hundred (600) feet from the intersection of Mississippi
556 Highway 15 and Mississippi Highway 4.

557 (g) The distance restrictions imposed in this
558 subsection shall not apply to the sale or storage of alcoholic
559 beverages at a licensed premises in a building located at the
560 southeast corner of Ward and Tate Streets in the City of
561 Senatobia, Mississippi.

562 (4) No person, either individually or as a member of a firm,
563 partnership, limited liability company or association, or as a
564 stockholder, officer or director in a corporation, shall own or
565 control any interest in more than one (1) package retailer's
566 permit, nor shall such person's spouse, if living in the same
567 household of such person, any relative of such person, if living
568 in the same household of such person, or any other person living
569 in the same household with such person own any interest in any
570 other package retailer's permit.

571 (5) (a) In addition to any other authority granted under
572 this section, the holder of a permit issued under subsection
573 (1) (c), (e), (f), (g), (l), (n) and/or (o) of this section may



574 sell or otherwise provide alcoholic beverages and/or wine to a
575 patron of the permit holder in the manner authorized in the permit
576 and the patron may remove an open glass, cup or other container of
577 the alcoholic beverage and/or wine from the licensed premises and
578 may possess and consume the alcoholic beverage or wine outside of
579 the licensed premises if: (i) the licensed premises is located
580 within a leisure and recreation district created under Section
581 67-1-101 and (ii) the patron remains within the boundaries of the
582 leisure and recreation district while in possession of the
583 alcoholic beverage or wine.

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

588 **SECTION 2.** Section 27-71-5, Mississippi Code of 1972, is
589 amended as follows:

590 27-71-5. (1) Upon each person approved for a permit under
591 the provisions of the Alcoholic Beverage Control Law and
592 amendments thereto, there is levied and imposed for each location
593 for the privilege of engaging and continuing in this state in the
594 business authorized by such permit, an annual privilege license
595 tax in the amount provided in the following schedule:

596 (a) Except as otherwise provided in this subsection
597 (1), manufacturer's permit, Class 1, distiller's and/or
598 rectifier's:



599 (i) For a permittee with annual production of
600 five thousand (5,000) gallons or more\$4,500.00
601 (ii) For a permittee with annual production under
602 five thousand (5,000) gallons\$2,800.00
603 (b) Manufacturer's permit, Class 2, wine
604 manufacturer\$1,800.00
605 (c) Manufacturer's permit, Class 3, native wine
606 manufacturer per ten thousand (10,000) gallons or part thereof
607 produced\$ 10.00
608 (d) Manufacturer's permit, Class 4, native spirit
609 manufacturer per one thousand (1,000) gallons or part thereof
610 produced\$ 300.00
611 (e) Native wine retailer's permit.....\$ 50.00
612 (f) Package retailer's permit, each.....\$ 900.00
613 (g) On-premises retailer's permit, except for clubs and
614 common carriers, each\$ 450.00
615 (h) On-premises retailer's permit for wine of more than
616 five percent (5%) alcohol by weight, but not more than twenty-one
617 percent (21%) alcohol by weight, each.....\$ 225.00
618 (i) On-premises retailer's permit for clubs...\$ 225.00
619 (j) On-premises retailer's permit for common carriers,
620 per car, plane, or other vehicle\$ 120.00
621 (k) Solicitor's permit, regardless of any other
622 provision of law, solicitor's permits shall be issued only in the
623 discretion of the department\$ 100.00



624	(l)	Filing fee for each application except for an	
625		employee identification card	\$ 25.00
626	(m)	Temporary permit, Class 1, each	\$ 10.00
627	(n)	Temporary permit, Class 2, each	\$ 50.00
628	(o)	(i) Caterer's permit	\$ 600.00
629		(ii) Caterer's permit for holders of on-premises	
630		retailer's permit	\$ 150.00
631	(p)	Research permit	\$ 100.00
632	(q)	Temporary permit, Class 3 (wine only)	\$ 10.00
633	(r)	Special service permit	\$ 225.00
634	(s)	Merchant permit	\$ 225.00
635	(t)	Temporary alcoholic beverages charitable auction	
636		permit	\$ 10.00
637	(u)	Event venue retailer's permit	\$ 225.00
638	(v)	Temporary theatre permit, each	\$ 10.00
639	(w)	Charter ship operator's permit	\$ 100.00
640	(x)	Distillery retailer's permit	\$ 450.00
641	(y)	Festival wine permit	\$ 10.00
642	(z)	Charter vessel operator's permit	\$ 100.00
643	(aa)	Native spirit retailer's permit	\$ 50.00
644	(bb)	Delivery service permit	\$ 500.00
645	(cc)	Food truck permit	\$ 100.00

646 In addition to the filing fee imposed by paragraph (l) of
647 this subsection, a fee to be determined by the Department of
648 Revenue may be charged to defray costs incurred to process



649 applications. The additional fees shall be paid into the State
650 Treasury to the credit of a special fund account, which is hereby
651 created, and expenditures therefrom shall be made only to defray
652 the costs incurred by the Department of Revenue in processing
653 alcoholic beverage applications. Any unencumbered balance
654 remaining in the special fund account on June 30 of any fiscal
655 year shall lapse into the State General Fund.

656 All privilege taxes imposed by this section shall be paid in
657 advance of doing business. A new permittee whose privilege tax is
658 determined by production volume will pay the tax for the first
659 year in accordance with department regulations. The additional
660 privilege tax imposed for an on-premises retailer's permit based
661 upon purchases shall be due and payable on demand.

662 Paragraph (y) of this subsection shall stand repealed from
663 and after July 1, 2023.

664 (2) (a) There is imposed and shall be collected from each
665 permittee, except a common carrier, solicitor, a temporary
666 permittee or a delivery service permittee, by the department, an
667 additional license tax equal to the amounts imposed under
668 subsection (1) of this section for the privilege of doing business
669 within any municipality or county in which the licensee is
670 located.

671 (b) (i) In addition to the tax imposed in paragraph
672 (a) of this subsection, there is imposed and shall be collected by
673 the department from each permittee described in subsection (1)(g),



674 (h), (i), (n) and (u) of this section, an additional license tax
675 for the privilege of doing business within any municipality or
676 county in which the licensee is located in the amount of Two
677 Hundred Twenty-five Dollars (\$225.00) on purchases exceeding Five
678 Thousand Dollars (\$5,000.00) and Two Hundred Twenty-five Dollars
679 (\$225.00) for each additional purchase of Five Thousand Dollars
680 (\$5,000.00), or fraction thereof.

681 (ii) In addition to the tax imposed in paragraph
682 (a) of this subsection, there is imposed and shall be collected by
683 the department from each permittee described in subsection (1)(o)
684 and (s) of this section, an additional license tax for the
685 privilege of doing business within any municipality or county in
686 which the licensee is located in the amount of Two Hundred Fifty
687 Dollars (\$250.00) on purchases exceeding Five Thousand Dollars
688 (\$5,000.00) and Two Hundred Twenty-five Dollars (\$225.00) for each
689 additional purchase of Five Thousand Dollars (\$5,000.00), or
690 fraction thereof.

691 (iii) Any person who has paid the additional
692 privilege license tax imposed by this paragraph, and whose permit
693 is renewed, may add any unused fraction of Five Thousand Dollars
694 (\$5,000.00) purchases to the first Five Thousand Dollars
695 (\$5,000.00) purchases authorized by the renewal permit, and no
696 additional license tax will be required until purchases exceed the
697 sum of the two (2) figures.



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

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

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

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



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

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

733 **SECTION 3.** This act shall take effect and be in force from
734 and after July 1, 2022.

