

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

HOUSE BILL NO. 918  
(As Sent to Governor)

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  
17 PROVIDE THAT THE RESTRICTIONS ON THE MANUFACTURING, SALE OR  
18 STORAGE OF INTOXICATING LIQUORS WITHIN CERTAIN DISTANCES OF  
19 CHURCHES, SCHOOLS AND FUNERAL HOMES SHALL NOT APPLY TO THE SALE OR  
20 STORAGE OF ALCOHOLIC BEVERAGES AT CERTAIN LOCATIONS; TO AMEND  
21 SECTION 27-71-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THE  
22 PRIVILEGE TAX REQUIRED FOR THE ISSUANCE OF A FOOD TRUCK PERMIT;  
23 AND FOR RELATED PURPOSES.

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

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

27 67-1-51. (1) Permits which may be issued by the department  
28 shall be as follows:



29           (a) **Manufacturer's permit.** A manufacturer's permit  
30 shall permit the manufacture, importation in bulk, bottling and  
31 storage of alcoholic liquor and its distribution and sale to  
32 manufacturers holding permits under this chapter in this state and  
33 to persons outside the state who are authorized by law to purchase  
34 the same, and to sell as provided by this chapter.

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

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

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

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

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

51           (b) **Package retailer's permit.** Except as otherwise  
52 provided in this paragraph and Section 67-1-52, a package  
53 retailer's permit shall authorize the holder thereof to operate a



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

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



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



104 adjacent to the State of Mississippi south of the three (3) most  
105 southern counties in the State of Mississippi and/or on the  
106 Mississippi River or navigable waters within any county bordering  
107 on the Mississippi River.

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

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



129 consumers for on-premises consumption, a holder of a native wine  
130 retailer's permit may add to the native wine alcoholic beverages  
131 not produced on the premises, so long as the total volume of  
132 foreign beverage components does not exceed twenty percent (20%)  
133 of the mixed beverage. Hours of sale shall be the same as those  
134 authorized for on-premises permittees in the city or county in  
135 which the native wine retailer is located.

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

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

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



154 package retailers located in the county in which the temporary  
155 permit is issued. Alcoholic beverages remaining in stock upon  
156 expiration of the temporary permit may be returned by the  
157 permittee to the package retailer for a refund of the purchase  
158 price upon consent of the package retailer or may be kept by the  
159 permittee exclusively for personal use and consumption, subject to  
160 all laws pertaining to the illegal sale and possession of  
161 alcoholic beverages. The department, following review of the  
162 statement provided by the applicant and the requirements of the  
163 applicable statutes and regulations, may issue the permit.

164 Class 2. A temporary permit, not to exceed seventy (70)  
165 days, may be issued to prospective permittees seeking to transfer  
166 a permit authorized in paragraph (c) of this subsection. A Class  
167 2 permit may be issued only to applicants demonstrating to the  
168 department, by a statement signed under the penalty of perjury,  
169 that they meet the qualifications of Sections 67-1-5(1), (m), (n),  
170 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and  
171 67-1-59. The department, following a preliminary review of the  
172 statement provided by the applicant and the requirements of the  
173 applicable statutes and regulations, may issue the permit.

174 Class 2 temporary permittees must purchase their alcoholic  
175 beverages directly from the department or, with approval of the  
176 department, purchase the remaining stock of the previous  
177 permittee. If the proposed applicant of a Class 1 or Class 2  
178 temporary permit falsifies information contained in the



179 application or statement, the applicant shall never again be  
180 eligible for a retail alcohol beverage permit and shall be subject  
181 to prosecution for perjury.

182       Class 3. A temporary one-day permit may be issued to a  
183 retail establishment authorizing the complimentary distribution of  
184 wine, including native wine, to patrons of the retail  
185 establishment at an open house or promotional event, for  
186 consumption only on the premises described in the temporary  
187 permit. A Class 3 permit may be issued only to an applicant  
188 demonstrating to the department, by a statement signed under  
189 penalty of perjury submitted ten (10) days before the proposed  
190 date or such other time as the department may determine, that it  
191 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)  
192 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.  
193 A Class 3 permit holder shall obtain all alcoholic beverages from  
194 the holder(s) of a package retailer's permit located in the county  
195 in which the temporary permit is issued. Wine remaining in stock  
196 upon expiration of the temporary permit may be returned by the  
197 Class 3 temporary permit holder to the package retailer for a  
198 refund of the purchase price, with consent of the package  
199 retailer, or may be kept by the Class 3 temporary permit holder  
200 exclusively for personal use and consumption, subject to all laws  
201 pertaining to the illegal sale and possession of alcoholic  
202 beverages. The department, following review of the statement  
203 provided by the applicant and the requirements of the applicable





204 statutes and regulations, may issue the permit. No retailer may  
205 receive more than twelve (12) Class 3 temporary permits in a  
206 calendar year. A Class 3 temporary permit shall not be issued to  
207 a retail establishment that either holds a merchant permit issued  
208 under paragraph (1) of this subsection, or holds a permit issued  
209 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing  
210 the holder to engage in the business of a retailer of light wine  
211 or beer.

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



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

251 (h) **Research permit.** A research permit shall authorize  
252 the holder thereof to operate a research facility for the  
253 professional research of alcoholic beverages. Such permit shall



254 authorize the holder of the permit to import and purchase limited  
255 amounts of alcoholic beverages from the department or from  
256 importers, wineries and distillers of alcoholic beverages for  
257 professional research.

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

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

273           (k) **Special service permit.** A special service permit  
274 shall authorize the holder to sell commercially sealed alcoholic  
275 beverages to the operator of a commercial or private aircraft for  
276 en route consumption only by passengers. A special service permit  
277 shall be issued only to a fixed-base operator who contracts with



278 an airport facility to provide fueling and other associated  
279 services to commercial and private aircraft.

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

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



303 consumed on the premises; (iii) the permit holder may not conduct  
304 more than two (2) auctions during a calendar year; (iv) the permit  
305 holder may not pay a commission or promotional fee to any person  
306 to arrange or conduct the auction.

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



327           (o) **Temporary theatre permit.** A temporary theatre  
328 permit, not to exceed five (5) days, may be issued to a charitable  
329 nonprofit organization that is exempt from taxation under Section  
330 501(c) (3) or (4) of the Internal Revenue Code and owns or operates  
331 a theatre facility that features plays and other theatrical  
332 performances and productions. Except as otherwise provided in  
333 subsection (5) of this section, the permit shall authorize the  
334 holder to sell alcoholic beverages, including native wines and  
335 native spirits, to patrons of the theatre during performances and  
336 productions at the theatre facility for consumption during such  
337 performances and productions on the premises of the facility  
338 described in the permit. A temporary theatre permit holder shall  
339 obtain all alcoholic beverages from package retailers located in  
340 the county in which the permit is issued. Alcoholic beverages  
341 remaining in stock upon expiration of the temporary theatre permit  
342 may be returned by the permittee to the package retailer for a  
343 refund of the purchase price upon consent of the package retailer  
344 or may be kept by the permittee exclusively for personal use and  
345 consumption, subject to all laws pertaining to the illegal sale  
346 and possession of alcoholic beverages.

347           (p) **Charter ship operator's permit.** Subject to the  
348 provisions of this paragraph (p), a charter ship operator's permit  
349 shall authorize the holder thereof and its employees to serve,  
350 monitor, store and otherwise control the serving and availability  
351 of alcoholic beverages to customers of the permit holder during



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

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



377 manufactured by the manufacturer at the distillery described in  
378 the permit. However, when selling to consumers for on-premises  
379 consumption, a holder of a distillery retailer's permit may add  
380 other beverages, alcoholic or not, so long as the total volume of  
381 other beverage components containing alcohol does not exceed  
382 twenty percent (20%). Hours of sale shall be the same as those  
383 authorized for on-premises permittees in the city or county in  
384 which the distillery retailer is located.

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





402 beverages, the holder of a distillery retailer's permit may sell  
403 at retail promotional products from the same retail location,  
404 including shirts, hats, glasses, and other promotional products  
405 customarily sold by alcoholic beverage manufacturers.

406 (r) **Festival Wine Permit.** Any wine manufacturer or  
407 native wine producer permitted by Mississippi or any other state  
408 is eligible to obtain a Festival Wine Permit. This permit  
409 authorizes the entity to transport product manufactured by it to  
410 festivals held within the State of Mississippi and sell sealed,  
411 unopened bottles to festival participants. The holder of this  
412 permit may provide samples at no charge to participants.

413 "Festival" means any event at which three (3) or more vendors are  
414 present at a location for the sale or distribution of goods. The  
415 holder of a Festival Wine Permit is not required to purchase the  
416 alcoholic beverages authorized to be sold by this paragraph from  
417 the department's liquor distribution warehouse. However, if the  
418 holder does not purchase the alcoholic beverages from the  
419 department's liquor distribution warehouse, the holder of this  
420 permit shall pay to the department all taxes, fees and surcharges  
421 on the alcoholic beverages sold at such festivals that are imposed  
422 upon the sale of alcoholic beverages shipped by the Alcoholic  
423 Beverage Control Division of the Department of Revenue.  
424 Additionally, the entity shall file all applicable reports and  
425 returns as prescribed by the department. This permit is issued  
426 per festival and provides authority to sell for two (2)



427 consecutive days during the hours authorized for on-premises  
428 permittees' sales in that county or city. The holder of the  
429 permit shall be required to maintain all requirements set by Local  
430 Option Law for the service and sale of alcoholic beverages. This  
431 permit may be issued to entities participating in festivals at  
432 which a Class 1 temporary permit is in effect.

433 This paragraph (r) shall stand repealed from and after July  
434 1, 2023.

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



452 Mississippi, and lie adjacent to the State of Mississippi south of  
453 the three (3) most southern counties in the State of Mississippi,  
454 extending not further than one (1) mile south of such counties,  
455 and (iii) provides vessel services for tours and cruises in such  
456 waters as provided in this paragraph (s).

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

472           (u) **Delivery service permit.** Any individual, limited  
473 liability company, corporation or partnership registered to do  
474 business in this state is eligible to obtain a delivery service  
475 permit. Subject to the provisions of Section 67-1-51.1, this  
476 permit authorizes the permittee, or its employee or an independent



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

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



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

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

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

525 (b) A church or funeral home may waive the distance  
526 restrictions imposed in this subsection in favor of allowing



527 issuance by the department of a permit, pursuant to subsection (1)  
528 of this section, to authorize activity relating to the  
529 manufacturing, sale or storage of alcoholic beverages which would  
530 otherwise be prohibited under the minimum distance criterion.  
531 Such waiver shall be in written form from the owner, the governing  
532 body, or the appropriate officer of the church or funeral home  
533 having the authority to execute such a waiver, and the waiver  
534 shall be filed with and verified by the department before becoming  
535 effective.

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

545 (d) The distance restrictions imposed in this  
546 subsection shall not apply to the sale or storage of alcoholic  
547 beverages at a qualified resort area as defined in Section  
548 67-1-5(o)(iii)32.

549 (e) The distance restrictions imposed in this  
550 subsection shall not apply to the sale or storage of alcoholic  
551 beverages at a licensed premises in a building formerly owned by a



552 municipality and formerly leased by the municipality to a  
553 municipal school district and used by the municipal school  
554 district as a district bus shop facility.

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

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

566 (h) The distance restrictions imposed in this  
567 subsection shall not apply to the sale or storage of alcoholic  
568 beverages at a theatre facility that features plays and other  
569 theatrical performances and productions and (i) is capable of  
570 seating more than seven hundred fifty (750) people, (ii) is owned  
571 by a municipality which has a population greater than ten thousand  
572 (10,000) according to the latest federal decennial census, (iii)  
573 was constructed prior to 1930, (iv) is on the National Register of  
574 Historic Places and (v) is located in a historic district.

575 (4) No person, either individually or as a member of a firm,  
576 partnership, limited liability company or association, or as a



577 stockholder, officer or director in a corporation, shall own or  
578 control any interest in more than one (1) package retailer's  
579 permit, nor shall such person's spouse, if living in the same  
580 household of such person, any relative of such person, if living  
581 in the same household of such person, or any other person living  
582 in the same household with such person own any interest in any  
583 other package retailer's permit.

584 (5) (a) In addition to any other authority granted under  
585 this section, the holder of a permit issued under subsection  
586 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may  
587 sell or otherwise provide alcoholic beverages and/or wine to a  
588 patron of the permit holder in the manner authorized in the permit  
589 and the patron may remove an open glass, cup or other container of  
590 the alcoholic beverage and/or wine from the licensed premises and  
591 may possess and consume the alcoholic beverage or wine outside of  
592 the licensed premises if: (i) the licensed premises is located  
593 within a leisure and recreation district created under Section  
594 67-1-101 and (ii) the patron remains within the boundaries of the  
595 leisure and recreation district while in possession of the  
596 alcoholic beverage or wine.

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





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

603           27-71-5. (1) Upon each person approved for a permit under  
604 the provisions of the Alcoholic Beverage Control Law and  
605 amendments thereto, there is levied and imposed for each location  
606 for the privilege of engaging and continuing in this state in the  
607 business authorized by such permit, an annual privilege license  
608 tax in the amount provided in the following schedule:

609                   (a) Except as otherwise provided in this subsection  
610 (1), manufacturer's permit, Class 1, distiller's and/or  
611 rectifier's:

612                           (i) For a permittee with annual production of  
613 five thousand (5,000) gallons or more.....\$4,500.00

614                           (ii) For a permittee with annual production under  
615 five thousand (5,000) gallons.....\$2,800.00

616                   (b) Manufacturer's permit, Class 2, wine  
617 manufacturer.....\$1,800.00

618                   (c) Manufacturer's permit, Class 3, native wine  
619 manufacturer per ten thousand (10,000) gallons or part thereof  
620 produced.....\$ 10.00

621                   (d) Manufacturer's permit, Class 4, native spirit  
622 manufacturer per one thousand (1,000) gallons or part thereof  
623 produced.....\$ 300.00

624                   (e) Native wine retailer's permit.....\$ 50.00

625                   (f) Package retailer's permit, each.....\$ 900.00



626 (g) On-premises retailer's permit, except for clubs and  
627 common carriers, each.....\$ 450.00

628 (h) On-premises retailer's permit for wine of more than  
629 five percent (5%) alcohol by weight, but not more than twenty-one  
630 percent (21%) alcohol by weight, each.....\$ 225.00

631 (i) On-premises retailer's permit for clubs...\$ 225.00

632 (j) On-premises retailer's permit for common carriers,  
633 per car, plane, or other vehicle.....\$ 120.00

634 (k) Solicitor's permit, regardless of any other  
635 provision of law, solicitor's permits shall be issued only in the  
636 discretion of the department.....\$ 100.00

637 (l) Filing fee for each application except for an  
638 employee identification card.....\$ 25.00

639 (m) Temporary permit, Class 1, each.....\$ 10.00

640 (n) Temporary permit, Class 2, each.....\$ 50.00

641 (o) (i) Caterer's permit.....\$ 600.00

642 (ii) Caterer's permit for holders of on-premises  
643 retailer's permit.....\$ 150.00

644 (p) Research permit.....\$ 100.00

645 (q) Temporary permit, Class 3 (wine only).....\$ 10.00

646 (r) Special service permit.....\$ 225.00

647 (s) Merchant permit.....\$ 225.00

648 (t) Temporary alcoholic beverages charitable auction  
649 permit.....\$ 10.00

650 (u) Event venue retailer's permit.....\$ 225.00



651	(v)	Temporary theatre permit, each.....	\$ 10.00
652	(w)	Charter ship operator's permit.....	\$ 100.00
653	(x)	Distillery retailer's permit.....	\$ 450.00
654	(y)	Festival wine permit.....	\$ 10.00
655	(z)	Charter vessel operator's permit.....	\$ 100.00
656	(aa)	Native spirit retailer's permit.....	\$ 50.00
657	(bb)	Delivery service permit.....	\$ 500.00
658	(cc)	<u>Food truck permit.....</u>	<u>\$ 100.00</u>

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

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



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

677 (2) (a) There is imposed and shall be collected from each  
678 permittee, except a common carrier, solicitor, a temporary  
679 permittee or a delivery service permittee, by the department, an  
680 additional license tax equal to the amounts imposed under  
681 subsection (1) of this section for the privilege of doing business  
682 within any municipality or county in which the licensee is  
683 located.

684 (b) (i) In addition to the tax imposed in paragraph  
685 (a) of this subsection, there is imposed and shall be collected by  
686 the department from each permittee described in subsection (1)(g),  
687 (h), (i), (n) and (u) of this section, an additional license tax  
688 for the privilege of doing business within any municipality or  
689 county in which the licensee is located in the amount of Two  
690 Hundred Twenty-five Dollars (\$225.00) on purchases exceeding Five  
691 Thousand Dollars (\$5,000.00) and Two Hundred Twenty-five Dollars  
692 (\$225.00) for each additional purchase of Five Thousand Dollars  
693 (\$5,000.00), or fraction thereof.

694 (ii) In addition to the tax imposed in paragraph  
695 (a) of this subsection, there is imposed and shall be collected by  
696 the department from each permittee described in subsection (1)(o)  
697 and (s) of this section, an additional license tax for the  
698 privilege of doing business within any municipality or county in  
699 which the licensee is located in the amount of Two Hundred Fifty



700 Dollars (\$250.00) on purchases exceeding Five Thousand Dollars  
701 (\$5,000.00) and Two Hundred Twenty-five Dollars (\$225.00) for each  
702 additional purchase of Five Thousand Dollars (\$5,000.00), or  
703 fraction thereof.

704 (iii) Any person who has paid the additional  
705 privilege license tax imposed by this paragraph, and whose permit  
706 is renewed, may add any unused fraction of Five Thousand Dollars  
707 (\$5,000.00) purchases to the first Five Thousand Dollars  
708 (\$5,000.00) purchases authorized by the renewal permit, and no  
709 additional license tax will be required until purchases exceed the  
710 sum of the two (2) figures.

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

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



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

730 (5) If any person shall engage or continue in any business  
731 which is taxable under this section without having paid the tax as  
732 provided in this section, the person shall be liable for the full  
733 amount of the tax plus a penalty thereon equal to the amount  
734 thereof, and, in addition, shall be punished by a fine of not more  
735 than One Thousand Dollars (\$1,000.00), or by imprisonment in the  
736 county jail for a term of not more than six (6) months, or by both  
737 such fine and imprisonment, in the discretion of the court.

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

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

