

By: Senator(s) Johnson

To: Finance

SENATE BILL NO. 2844

1 AN ACT TO DIRECT THE DEPARTMENT OF REVENUE TO PROVIDE FOR THE
2 CONSTRUCTION OF A NEW WAREHOUSE FOR THE ALCOHOLIC BEVERAGE CONTROL
3 DIVISION IN THE JACKSON, MISSISSIPPI, METROPOLITAN AREA; TO
4 PROVIDE THAT LAND ACQUISITION AND WAREHOUSE DESIGN AND
5 CONSTRUCTION SHALL BE FUNDED WITH MONIES FROM THE ABC WAREHOUSE
6 CONSTRUCTION FUND AND SUCH OTHER MONIES AS THE LEGISLATURE MAY
7 MAKE AVAILABLE; TO PROVIDE REQUIREMENTS FOR THE CONTRACT FOR THE
8 DESIGN AND CONSTRUCTION OF THE WAREHOUSE; TO DIRECT THE DEPARTMENT
9 TO CONTRACT FOR WAREHOUSE AND DISTRIBUTION OPERATIONS; TO SPECIFY
10 THAT THE OPERATOR SHALL TAKE RESPONSIBILITY FOR OPERATIONS AT THE
11 WAREHOUSE CURRENTLY USED BY THE DEPARTMENT AND SHALL THEREAFTER
12 ASSUME RESPONSIBILITY FOR OPERATIONS AT THE NEW WAREHOUSE AFTER
13 ITS CONSTRUCTION; TO PROVIDE THAT THE DEPARTMENT SHALL PAY REGULAR
14 MAINTENANCE EXPENSES AND SHALL REIMBURSE THE OPERATOR FOR SERVICES
15 PERFORMED UNDER THE CONTRACT OUT OF MONIES APPROPRIATED BY THE
16 LEGISLATURE; TO PROVIDE THAT THE STATE SHALL PAY THE OPERATOR
17 COST-PLUS ON THESE OPERATIONS AT A SET DOLLAR AMOUNT PER CASE OF
18 ALCOHOLIC BEVERAGES SOLD; TO REQUIRE THE CALCULATION OF SHIPPING
19 COSTS EVERY QUARTER, BASED ON THE ACTUAL SHIPPING COSTS OF THE
20 PREVIOUS QUARTER, AND TO PROVIDE THAT THE CONTRACT SHALL SPECIFY
21 CATEGORIES OF EXPENSES THAT MAY BE CONSIDERED ACTUAL SHIPPING
22 COSTS; TO PROVIDE FOR THE EVEN SHARING BETWEEN THE OPERATOR AND
23 THE STATE OF ANY DISCOUNT NEGOTIATED BY THE OPERATOR OFF THE PRICE
24 OF ALCOHOLIC BEVERAGES TO BE DISTRIBUTED ON BEHALF OF THE STATE;
25 TO PROVIDE THAT EXPENSES ASSOCIATED WITH OCCASIONAL IMPROVEMENTS
26 TO THE WAREHOUSE AND ITS EQUIPMENT SHALL BE PAID FROM MONIES IN
27 THE ABC WAREHOUSE IMPROVEMENTS FUND; TO REQUIRE THAT ALL EMPLOYEES
28 NEEDED FOR WAREHOUSE AND DISTRIBUTION OPERATIONS BE EMPLOYEES OF
29 THE OPERATOR; TO PROVIDE REQUIREMENTS FOR THE CONTRACT FOR
30 WAREHOUSE AND DISTRIBUTION OPERATIONS; TO REQUIRE THE COMMISSIONER
31 OF REVENUE TO DEVELOP A PLAN DEMONSTRATING THE METHOD BY WHICH THE
32 STATE WOULD RESUME CONTROL OF THE WAREHOUSE UPON TERMINATION OF
33 THE CONTRACT; TO REQUIRE THAT THE PLAN BE SUBMITTED FOR REVIEW AND
34 COMMENT TO THE GOVERNOR AND THE LEGISLATURE; TO PROVIDE THAT THE



35 COMMISSIONER OF REVENUE SHALL DESIGNATE AN EXISTING DEPARTMENT
36 EMPLOYEE AS A CONTRACT COMPLIANCE OFFICER TO MONITOR THE CONTRACT
37 FOR WAREHOUSE AND DISTRIBUTION OPERATIONS AND SHALL ASSURE
38 OPERATOR COMPLIANCE WITH ITS PERFORMANCE WORK STATEMENT; TO
39 REQUIRE THE CONTRACT COMPLIANCE OFFICER TO REPORT AT LEAST
40 ANNUALLY, OR AS REQUESTED, TO THE GOVERNOR AND THE LEGISLATURE; TO
41 CREATE THE ABC WAREHOUSE CONSTRUCTION FUND AS A SPECIAL FUND IN
42 THE STATE TREASURY TO ASSIST THE DEPARTMENT OF REVENUE IN PAYING
43 THE COSTS ASSOCIATED WITH LAND ACQUISITION FOR, AND THE DESIGN,
44 CONSTRUCTION, FURNISHING AND EQUIPPING OF, THE WAREHOUSE; TO
45 CREATE THE ABC WAREHOUSE IMPROVEMENTS FUND AS A SPECIAL FUND IN
46 THE STATE TREASURY TO ASSIST THE DEPARTMENT OF REVENUE IN PAYING
47 THE COSTS ASSOCIATED WITH OCCASIONAL MAINTENANCE, REPAIRS,
48 UPGRADES AND OTHER IMPROVEMENTS FOR THE WAREHOUSE AND ITS
49 EQUIPMENT; TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION
50 BONDS IN AN AMOUNT OF \$55,000,000.00 FOR THE ABC WAREHOUSE
51 CONSTRUCTION FUND; TO AMEND SECTION 27-71-11, MISSISSIPPI CODE OF
52 1972, IN CONFORMITY TO THE ABOVE, AND TO ADD A \$0.25 CHARGE TO THE
53 COST OF EACH CASE OF ALCOHOLIC BEVERAGES SHIPPED BY THE DEPARTMENT
54 OR ITS WAREHOUSE OPERATOR, TO BE DEPOSITED INTO THE ABC WAREHOUSE
55 IMPROVEMENTS FUND; TO PERIODICALLY SUSPEND THE CHARGE WHEN THE
56 AMOUNT IN THE ABC WAREHOUSE IMPROVEMENTS FUND REACHES CERTAIN
57 THRESHOLDS; TO AMEND SECTION 27-71-29, MISSISSIPPI CODE OF 1972,
58 IN CONFORMITY TO THE ABOVE, AND TO PROVIDE THAT PROCEEDS REMAINING
59 IN THE ABC SHIPPING FUND ON AUGUST 1 OF ANY FISCAL YEAR SHALL NOT
60 LAPSE INTO THE GENERAL FUND; TO AMEND SECTIONS 27-65-5 AND
61 27-65-25, MISSISSIPPI CODE OF 1972, TO REMOVE THE SALES TAX ON
62 WHOLESALE PURCHASES OF ALCOHOLIC BEVERAGES; TO AMEND SECTIONS
63 7-7-211, 27-71-7, 27-71-9, 27-71-13, 27-71-15, 27-71-17, 67-1-5,
64 67-1-9, 67-1-19, 67-1-33, 67-1-41, 67-1-43, 67-1-45, 67-1-49,
65 67-1-51, 67-5-5, 67-5-11, 67-5-13, 67-11-9 AND 67-11-11,
66 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE ABOVE; AND FOR
67 RELATED PURPOSES.

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

69 **SECTION 1. Definitions.** In addition to the definitions
70 provided in Section 67-1-5, which apply to this article, the
71 following terms as used in this article shall have the following
72 meanings unless otherwise required by the context:

73 (a) "Commissioner" means the Commissioner of Revenue;

74 (b) "Construction contractor" means an entity
75 contracting with the department to design and construct a
76 warehouse under this article;



77 (c) "Occasional improvements" means items of
78 maintenance, repairs, upgrades or other improvements for the
79 warehouse or its equipment that are not individually performed on
80 a monthly basis;

81 (d) "Regular maintenance" means monthly overhead
82 expenses, including, but not limited to, utilities, cleaning
83 services and lawn care;

84 (e) "Shipping costs" means the average quarterly cost
85 per case of alcoholic beverages delivered, measured from the time
86 the delivery vehicle departs the warehouse to the time it arrives
87 at the permittee's premises;

88 (f) "State" means the State of Mississippi;

89 (g) "Warehouse" or "new warehouse" means a liquor
90 distribution warehouse constructed under this article;

91 (h) "Warehouse operator" or "operator" means an entity
92 contracting with the department to perform warehouse and
93 distribution operations; and

94 (i) "Warehouse and distribution operations" or
95 "operations" means services provided to or on behalf of the state
96 for the management of the warehouse and the distribution of
97 alcoholic beverages.

98 **SECTION 2. Warehouse construction.** (1) The department,
99 using the monies available in the ABC Warehouse Construction Fund
100 created in Section 6(1) of this act and such other monies as the
101 Legislature may make available, shall purchase land for and shall



102 provide for the design and construction of a warehouse for the
103 division in the most expedient and cost-effective manner
104 practicable.

105 (2) The department shall select a suitable site for the
106 warehouse within fifty (50) miles of the state capitol building.
107 In selecting a site, the department shall give preference to
108 state-owned land, if feasible when comparing the cost of site
109 preparation to the total construction cost.

110 (3) The contract for design and construction shall provide
111 that the operator shall be consulted so that the warehouse may, so
112 far as possible, suit the preferences of the operator in
113 furtherance of effective operations. The contract shall also
114 provide that the design shall aim to fill demand for the next
115 twenty-five (25) years.

116 (4) A contract for warehouse construction shall not be
117 entered into unless the construction contractor has demonstrated:

118 (a) The qualifications, experience and management
119 personnel necessary to carry out the terms of the contract;

120 (b) The ability to comply with applicable federal and
121 state laws; and

122 (c) The ability to expedite the design and construction
123 of facilities comparable to the warehouse.

124 **SECTION 3. Warehouse and distribution operations.** (1) The
125 department shall contract for warehouse and distribution
126 operations. The operator shall assume responsibility for



127 operations at the warehouse used by the department when the term
128 of the contract begins, and shall thereafter assume responsibility
129 for operations at the new warehouse after its construction.

130 (2) The department shall pay regular maintenance expenses
131 and shall reimburse the operator for services performed under the
132 contract out of monies appropriated by the Legislature.

133 (3) The contract shall include the following terms:

134 (a) The department shall pay the operator cost-plus on
135 these operations at a set dollar amount per case of alcoholic
136 beverages sold. Otherwise, the contract shall not alter the
137 current cash flow of operations;

138 (b) The operator shall be allotted a monthly spending
139 limit for occasional improvements. The state may, at any time,
140 review the operator's spending. The operator shall obtain prior
141 state approval for any spending over the monthly limit set in the
142 contract. The contract may allow either or both of the following
143 methods for funding occasional improvements:

144 (i) The operator may pay out of pocket, in which
145 case the state will reimburse the operator on a monthly basis out
146 of monies in the ABC Warehouse Improvements Fund created in
147 Section 6(2) of this act; or

148 (ii) The contract compliance officer authorized
149 under Section 5 of this act may pay on behalf of the department by
150 accessing the monies in the ABC Warehouse Improvements Fund;



151 (c) Shipping costs shall be calculated every quarter
152 and shall be based on the actual shipping costs of the previous
153 quarter. The contract shall specify the categories of expenses
154 that may be considered actual shipping costs;

155 (e) If the operator negotiates a discount off the price
156 of alcoholic beverages received by the operator for distribution
157 on behalf of the state, the benefit of the discount shall be split
158 evenly between the operator and the state; and

159 (f) The operator may use the TAP system as used by the
160 department or may integrate it with the operator's own software.

161 (4) The initial contract for operations shall be for a
162 period of not more than ten (10) years, with the option to renew
163 for additional periods of not more than ten (10) years at a time.
164 The contract shall provide that all employees needed for
165 operations shall be employees of the operator.

166 (5) A contract for warehouse and distribution operations
167 shall not be entered into unless the operator has demonstrated:

168 (a) The qualifications, experience and management
169 personnel necessary to carry out the terms of the contract;

170 (b) The ability to comply with applicable federal and
171 state laws; and

172 (c) A history of successful management and distribution
173 operations for comparable facilities.

174 (6) A contract for operations shall not be entered into
175 unless the following requirements are met:



176 (a) In addition to fire and casualty insurance, the
177 operator provides at least Ten Million Dollars (\$10,000,000.00) of
178 liability insurance. The liability insurance shall be issued by
179 an insurance company with a rating of at least an A- according to
180 A.M. Best standards. In determining the adequacy of such
181 insurance, the Department of Finance and Administration shall
182 determine whether:

183 (i) The insurance is adequate to protect the state
184 from any and all actions by a third party against the operator or
185 the state as a result of the contract;

186 (ii) The insurance is adequate to protect the
187 state against any and all claims arising as a result of any
188 occurrence during the term of the contract;

189 (iii) The insurance is adequate to assure the
190 operator's ability to fulfill its contract with the state in all
191 respects, and to assure that the operator is not limited in this
192 ability because of financial liability which results from
193 judgments; and

194 (iv) The insurance is adequate to satisfy such
195 other requirements specified by the independent risk
196 management/actuarial firm.

197 (b) The sovereign immunity of the state shall not apply
198 to the operator. Neither the operator nor the operator's insurer
199 may plead the defense of sovereign immunity in any action arising
200 out of the performance of the contract.



201 (c) The operator shall post a performance bond to
202 assure the operator's faithful performance of the specifications
203 and conditions of the contract. The bond is required throughout
204 the term of the contract. The terms and conditions must be
205 approved by the department and the Department of Finance and
206 Administration, and such approval is a condition precedent to the
207 contract taking effect.

208 (d) The operator shall defend any suit or claim brought
209 against the state arising out of any act or omission in
210 operations, and shall hold the state harmless from such claim or
211 suit. The operator shall be solely responsible for the payment of
212 any legal or other costs relative to any such claim or suit. The
213 operator shall reimburse the state for any costs that it may incur
214 as a result of such claim or suit immediately upon being submitted
215 a statement therefor by the Attorney General.

216 Any suit brought or claim made arising out of any act or
217 omission in operations shall be made or brought against the
218 operator and not the state.

219 The Attorney General retains all rights and emoluments of his
220 or her office which include direction and control over any
221 litigation or claim involving the state.

222 **SECTION 4. Resumption of control by state upon contract**
223 **termination.** A plan shall be developed and certified by the
224 commissioner which demonstrates the method by which the state
225 would resume control of the warehouse upon termination of the



226 contract for operations. The plan shall be submitted for review
227 and comment to the Governor, the Lieutenant Governor, the Speaker
228 of the House, the Chairmen of the Senate Finance Committee and the
229 House Ways and Means Committee, and the Joint Legislative
230 Committee on Performance Evaluation and Expenditure Review.

231 **SECTION 5. Contract compliance officer.** (1) The
232 commissioner shall designate an employee of the department as a
233 contract compliance officer within the department who shall
234 monitor the contract between the state and the operator for
235 warehouse and distribution operations, and shall assure operator
236 compliance with its performance work statement.

237 (2) The contract compliance officer shall be responsible for
238 monitoring all aspects of the warehouse. The officer shall be
239 provided an on-site work area, shall be on site on a daily basis,
240 and shall have access to all areas of the warehouse and staff at
241 all times. The operator shall provide any and all data, reports
242 and other materials that the contract compliance officer
243 determines are necessary to carry out monitoring responsibilities
244 under this section.

245 (3) The contract compliance officer shall have the authority
246 to access monies in the ABC Warehouse Improvements Fund created in
247 Section 6(2) of this act for the purpose of making payments on
248 behalf of the department for occasional improvements consistent
249 with the terms of the contract.



250 (4) The contract compliance officer shall report at least
251 annually, or as requested, to the Governor and the Legislature.

252 **SECTION 6.** (1) A special fund, to be designated the "ABC
253 Warehouse Construction Fund," is created within the State
254 Treasury. The fund shall be maintained by the State Treasurer as
255 a separate and special fund, separate and apart from the General
256 Fund of the state. Monies in this special fund shall be used to
257 assist the Department of Revenue in paying the costs associated
258 with land acquisition for, and the design, construction,
259 furnishing and equipping of, a new warehouse for its Alcoholic
260 Beverage Control Division. Unexpended amounts remaining in the
261 fund at the end of a fiscal year shall not lapse into the State
262 General Fund, and any interest earned or investment earnings or
263 interest earned on amounts in the fund shall be deposited to the
264 credit of the fund.

265 (2) A special fund, to be designated the "ABC Warehouse
266 Improvements Fund," is created within the State Treasury. The
267 fund shall be maintained by the State Treasurer as a separate and
268 special fund, separate and apart from the General Fund of the
269 state. Monies in this special fund shall be used to assist the
270 Department of Revenue in paying the costs associated with
271 occasional improvements. Unexpended amounts remaining in the fund
272 at the end of a fiscal year shall not lapse into the State General
273 Fund, and any interest earned or investment earnings or interest



274 earned on amounts in the fund shall be deposited to the credit of
275 the fund.

276 **SECTION 7.** (1) As used in this section, the following words
277 shall have the meanings ascribed herein unless the context clearly
278 requires otherwise:

279 (a) "Accreted value" of any bond means, as of any date
280 of computation, an amount equal to the sum of (i) the stated
281 initial value of such bond, plus (ii) the interest accrued thereon
282 from the issue date to the date of computation at the rate,
283 compounded semiannually, that is necessary to produce the
284 approximate yield to maturity shown for bonds of the same
285 maturity.

286 (b) "State" means the State of Mississippi.

287 (c) "Commission" means the State Bond Commission.

288 (2) (a) Monies deposited into the ABC Warehouse
289 Construction Fund created in Section 6(1) of this act shall be
290 disbursed, in the discretion of the Department of Finance and
291 Administration, to assist the Department of Revenue in paying the
292 costs associated with land acquisition for, and the design,
293 construction, furnishing and equipping of, a new warehouse for its
294 Alcoholic Beverage Control Division.

295 (b) Amounts deposited into the ABC Warehouse
296 Construction Fund created in Section 6(1) of this act shall be
297 disbursed to pay the costs of the projects described in paragraph
298 (a) of this subsection. Promptly after the commission has



299 certified, by resolution duly adopted, that the projects described
300 in paragraph (a) of this subsection have been completed,
301 abandoned, or cannot be completed in a timely fashion, any amounts
302 remaining in such special fund shall be applied to pay debt
303 service on the bonds issued under this section, in accordance with
304 the proceedings authorizing the issuance of such bonds and as
305 directed by the commission.

306 (3) (a) The commission, at one time, or from time to time,
307 may declare by resolution the necessity for issuance of general
308 obligation bonds of the State of Mississippi to provide funds for
309 all costs incurred or to be incurred for the purposes described in
310 subsection (2) of this section. Upon the adoption of a resolution
311 by the Department of Finance and Administration, declaring the
312 necessity for the issuance of any part or all of the general
313 obligation bonds authorized by this subsection, the department
314 shall deliver a certified copy of its resolution or resolutions to
315 the commission. Upon receipt of such resolution, the commission,
316 in its discretion, may act as the issuing agent, prescribe the
317 form of the bonds, determine the appropriate method for sale of
318 the bonds, advertise for and accept bids or negotiate the sale of
319 the bonds, issue and sell the bonds so authorized to be sold, and
320 do any and all other things necessary and advisable in connection
321 with the issuance and sale of such bonds. The total amount of
322 bonds issued under this section shall not exceed Fifty-five



323 Million Dollars (\$55,000,000.00). No bonds shall be issued under
324 this section after July 1, 2026.

325 (b) Any investment earnings on amounts deposited into
326 the ABC Warehouse Construction Fund created in Section 6(1) of
327 this act shall be used to pay debt service on bonds issued under
328 this section, in accordance with the proceedings authorizing
329 issuance of such bonds.

330 (4) The principal of and interest on the bonds authorized
331 under this section shall be payable in the manner provided in this
332 subsection. Such bonds shall bear such date or dates, be in such
333 denomination or denominations, bear interest at such rate or rates
334 (not to exceed the limits set forth in Section 75-17-101,
335 Mississippi Code of 1972), be payable at such place or places
336 within or without the State of Mississippi, shall mature
337 absolutely at such time or times not to exceed twenty-five (25)
338 years from date of issue, be redeemable before maturity at such
339 time or times and upon such terms, with or without premium, shall
340 bear such registration privileges, and shall be substantially in
341 such form, all as shall be determined by resolution of the
342 commission.

343 (5) The bonds authorized by this section shall be signed by
344 the chairman of the commission, or by his facsimile signature, and
345 the official seal of the commission shall be affixed thereto,
346 attested by the secretary of the commission. The interest
347 coupons, if any, to be attached to such bonds may be executed by



348 the facsimile signatures of such officers. Whenever any such
349 bonds have been signed by the officials designated to sign the
350 bonds who were in office at the time of such signing, but who may
351 have ceased to be such officers before the sale and delivery of
352 such bonds, or who may not have been in office on the date such
353 bonds may bear, the signatures of such officers upon such bonds
354 and coupons shall nevertheless be valid and sufficient for all
355 purposes and have the same effect as if the person so officially
356 signing such bonds had remained in office until their delivery to
357 the purchaser, or had been in office on the date such bonds may
358 bear. However, notwithstanding anything herein to the contrary,
359 such bonds may be issued as provided in the Registered Bond Act of
360 the State of Mississippi.

361 (6) All bonds and interest coupons issued under the
362 provisions of this section have all the qualities and incidents of
363 negotiable instruments under the provisions of the Uniform
364 Commercial Code, and in exercising the powers granted by this
365 section, the commission shall not be required to and need not
366 comply with the provisions of the Uniform Commercial Code.

367 (7) The commission shall act as issuing agent for the bonds
368 authorized under this section, prescribe the form of the bonds,
369 determine the appropriate method for sale of the bonds, advertise
370 for and accept bids or negotiate the sale of the bonds, issue and
371 sell the bonds so authorized to be sold, pay all fees and costs
372 incurred in such issuance and sale, and do any and all other



373 things necessary and advisable in connection with the issuance and
374 sale of such bonds. The commission is authorized and empowered to
375 pay the costs that are incident to the sale, issuance and delivery
376 of the bonds authorized under this section from the proceeds
377 derived from the sale of such bonds. The commission may sell such
378 bonds on sealed bids at public sale or may negotiate the sale of
379 the bonds for such price as it may determine to be for the best
380 interest of the State of Mississippi. All interest accruing on
381 such bonds so issued shall be payable semiannually or annually.

382 If such bonds are sold by sealed bids at public sale, notice
383 of the sale shall be published at least one time, not less than
384 ten (10) days before the date of sale, and shall be so published
385 in one or more newspapers published or having a general
386 circulation in the City of Jackson, Mississippi, selected by the
387 commission.

388 The commission, when issuing any bonds under the authority of
389 this section, may provide that bonds, at the option of the State
390 of Mississippi, may be called in for payment and redemption at the
391 call price named therein and accrued interest on such date or
392 dates named therein.

393 (8) The bonds issued under the provisions of this section
394 are general obligations of the State of Mississippi, and for the
395 payment thereof the full faith and credit of the State of
396 Mississippi is irrevocably pledged. If the funds appropriated by
397 the Legislature are insufficient to pay the principal of and the



398 interest on such bonds as they become due, then the deficiency
399 shall be paid by the State Treasurer from any funds in the State
400 Treasury not otherwise appropriated. All such bonds shall contain
401 recitals on their faces substantially covering the provisions of
402 this subsection.

403 (9) Upon the issuance and sale of bonds under the provisions
404 of this section, the commission shall transfer the proceeds of any
405 such sale or sales to the ABC Warehouse Construction Fund created
406 in Section 6(1) of this act. The proceeds of such bonds shall be
407 disbursed solely upon the order of the Department of Finance and
408 Administration under such restrictions, if any, as may be
409 contained in the resolution providing for the issuance of the
410 bonds.

411 (10) The bonds authorized under this section may be issued
412 without any other proceedings or the happening of any other
413 conditions or things other than those proceedings, conditions and
414 things which are specified or required by this section. Any
415 resolution providing for the issuance of bonds under the
416 provisions of this section shall become effective immediately upon
417 its adoption by the commission, and any such resolution may be
418 adopted at any regular or special meeting of the commission by a
419 majority of its members.

420 (11) The bonds authorized under the authority of this
421 section may be validated in the Chancery Court of the First
422 Judicial District of Hinds County, Mississippi, in the manner and



423 with the force and effect provided by Title 31, Chapter 13,
424 Mississippi Code of 1972, for the validation of county, municipal,
425 school district and other bonds. The notice to taxpayers required
426 by such statutes shall be published in a newspaper published or
427 having a general circulation in the City of Jackson, Mississippi.

428 (12) Any holder of bonds issued under the provisions of this
429 section or of any of the interest coupons pertaining thereto may,
430 either at law or in equity, by suit, action, mandamus or other
431 proceeding, protect and enforce any and all rights granted under
432 this section, or under such resolution, and may enforce and compel
433 performance of all duties required by this section to be
434 performed, in order to provide for the payment of bonds and
435 interest thereon.

436 (13) All bonds issued under the provisions of this section
437 shall be legal investments for trustees and other fiduciaries, and
438 for savings banks, trust companies and insurance companies
439 organized under the laws of the State of Mississippi, and such
440 bonds shall be legal securities which may be deposited with and
441 shall be received by all public officers and bodies of this state
442 and all municipalities and political subdivisions for the purpose
443 of securing the deposit of public funds.

444 (14) Bonds issued under the provisions of this section and
445 income therefrom shall be exempt from all taxation in the State of
446 Mississippi.



447 (15) The proceeds of the bonds issued under this section
448 shall be used solely for the purposes herein provided, including
449 the costs incident to the issuance and sale of such bonds.

450 (16) The State Treasurer is authorized, without further
451 process of law, to certify to the Department of Finance and
452 Administration the necessity for warrants. The Department of
453 Finance and Administration is authorized and directed to issue
454 such warrants, in such amounts as may be necessary to pay when due
455 the principal of, premium, if any, and interest on, or the
456 accreted value of, all bonds issued under this section. The State
457 Treasurer shall forward the necessary amount to the designated
458 place or places of payment of such bonds in ample time to
459 discharge such bonds, or the interest thereon, on the due dates
460 thereof.

461 (17) This section shall be deemed to be full and complete
462 authority for the exercise of the powers herein granted, but this
463 section shall not be deemed to repeal or to be in derogation of
464 any existing law of this state.

465 **SECTION 8.** Section 27-71-11, Mississippi Code of 1972, is
466 amended as follows:

467 27-71-11. (1) The * * * department shall from time to time
468 by resolution request the State Bond Commission to provide
469 sufficient funds required to maintain an adequate alcoholic
470 beverage inventory. Said funds shall be provided under the
471 provisions of Chapter 557, Laws of 1966.



472 (2) The * * * department or its warehouse operator shall add
473 to the cost of all alcoholic beverages a markup of twenty-seven
474 and one-half percent (27-1/2%), inclusive of the three percent
475 (3%) markup imposed by Section 27-71-7(2).

476 (3) In addition to other excise taxes and markups imposed in
477 this section and in Section 27-71-7, the department or its
478 warehouse operator shall add to the cost of all alcoholic
479 beverages shipped a charge of Twenty-five Cents (25¢) per case, to
480 be deposited into the ABC Warehouse Improvements Fund created in
481 Section 6(2) of this act. However, if the amount in the ABC
482 Warehouse Improvements Fund reaches Five Million Dollars
483 (\$5,000,000.00) before July 1, 2027, this charge shall be
484 suspended until July 1, 2027. If the amount in the ABC Warehouse
485 Improvements Fund reaches Ten Million Dollars (\$10,000,000.00)
486 between July 1, 2027, and July 1, 2030, this charge shall be
487 suspended until July 1, 2030. If the amount in the ABC Warehouse
488 Improvements Fund reaches Fifteen Million Dollars (\$15,000,000.00)
489 between July 1, 2030, and July 1, 2032, this charge shall be
490 suspended until July 1, 2032. The charge shall be permanently
491 discontinued on or after July 1, 2032, in the month in which the
492 amount in the ABC Warehouse Improvements Fund reaches Twenty-five
493 Million Dollars (\$25,000,000.00).

494 (4) The * * * department or its warehouse operator shall
495 sell alcoholic beverages at uniform prices throughout the state.



496 **SECTION 9.** Section 27-71-29, Mississippi Code of 1972, is
497 amended as follows:

498 27-71-29. All taxes levied by this article shall be paid to
499 the department * * * in cash or by personal check, cashier's
500 check, bank exchange, post office money order or express money
501 order and shall be deposited by the department in the State
502 Treasury on the same day collected, but no remittances other than
503 cash shall be a final discharge of liability for the tax herein
504 imposed and levied unless and until it has been paid in cash to
505 the department.

506 All taxes levied under Section 27-71-7(1) and received by the
507 department under this article shall be paid into the General Fund,
508 and the three percent (3%) levied under Section 27-71-7(2) and
509 received by the department under this article shall be paid into
510 the special fund in the State Treasury designated as the
511 "Alcoholism Treatment and Rehabilitation Fund" as required by law.
512 Any funds derived from the sale of alcoholic beverages in excess
513 of inventory requirements shall be paid not less often than
514 annually into the General Fund, except for fees charged by the
515 department or its warehouse operator for the defraying of costs
516 associated with shipping alcoholic beverages. The revenue derived
517 from these fees shall be deposited by the department into a
518 special fund, hereby created in the State Treasury, which is
519 designated the "ABC Shipping Fund." The monies in this special
520 fund shall be earmarked for use by the department or its warehouse



521 operator for any expenditure made to ship alcoholic beverages.
522 Any net proceeds remaining in the special fund on August 1 of any
523 fiscal year shall not lapse into the General Fund. "Net proceeds"
524 in this section means the total of all fees collected by the
525 department or its warehouse operator to defray the costs of
526 shipping less the actual costs of shipping.

527 **SECTION 10.** Section 27-65-5, Mississippi Code of 1972, is
528 amended as follows:

529 27-65-5. "Wholesaler," "jobber" or "distributor" means a
530 person doing a regularly organized wholesale or jobbing business,
531 known to the trade as such, and selling to licensed retail dealers
532 or other wholesalers for resale in the regular course of business.
533 This classification has no bearing on rates of tax due under this
534 chapter, each sale or part of sales being taxable or exempt
535 depending upon the class in which it falls.

536 "Wholesale sales" shall apply to:

537 (1) A sale of tangible personal property taxable
538 under * * * Section 27-65-17 * * * for resale in the regular line
539 of business, when made in good faith to a retailer regularly
540 selling or renting that property and when the dealer is licensed
541 under Section 27-65-27 of this chapter if located in this state.

542 A sale of a service taxable under Section 27-65-23 for resale
543 in the regular line of business, when made to a regular dealer in
544 that service and when the dealer is licensed under Section
545 27-65-27 of this chapter if located in this state, or a charge for



546 custom processing rendered upon merchandise for resale or rental
547 by a dealer licensed under Section 27-65-27.

548 A sale of telecommunications services taxable under Section
549 27-65-19 for resale in the regular course of business, when made
550 to a regular telecommunications provider of the service and the
551 provider is the holder of a permit issued under Section 27-65-27
552 and is located in this state or is providing telecommunications
553 services in this state.

554 A sale of specified digital product taxable under Section
555 27-65-26 for resale in the regular course of business, when made
556 to a regular dealer of specified digital products and the dealer
557 is the holder of a permit issued under Section 27-65-27 and is
558 located in this state.

559 "Wholesale sale" shall not include a transaction whereby
560 property is delivered to, and collection for the transaction is
561 made from, a person that will consume the property rather than
562 resell it even though the billing is to a retailer.

563 However, when a taxpayer sells merchandise and has paid a
564 rate equal to the retail rate of tax on the purchase price to a
565 wholesaler, the taxpayer may take credit for the tax paid to the
566 wholesaler from the tax due on the sale of the merchandise
567 specifically included in his return to the commissioner.

568 (2) A sale of tangible personal property (except sand
569 or gravel when sold by the producer thereof) or service which is
570 to become a component part of a structure or improvement erected,



571 constructed, repaired, or made only when the sale is made to a
572 contractor taxable under Section 27-65-21 of this chapter on the
573 contract in which the component materials are to be used; and only
574 when the contractor holds a material purchase certificate as
575 required by Section 27-65-21 of this chapter.

576 (3) A sale of boxes, crates, cartons, cans, bottles and
577 other packaging materials to a retailer or retail custom processor
578 for use as a container to accompany goods or services sold by the
579 retailer or custom processor where possession thereof will pass to
580 the customer at the time of sale of the goods or services
581 contained therein.

582 (4) The value of soft drinks and syrup withdrawn from
583 the business by a manufacturer for sale at retail and food or
584 drink withdrawn by a manufacturer or wholesaler to be sold through
585 full service vending machines for human consumption.

586 The quantity of property or services sold or the price at
587 which sold is immaterial in determining whether or not a sale is
588 at wholesale. Sales may be classed as wholesale, or exempt, only
589 if evidenced by proper and adequate records and invoices to
590 substantiate the wholesale rate or exemption from the tax on each
591 individual sale.

592 The substantiation of the wholesale sales must be by an
593 invoice clearly indicating the date, the name and address of the
594 vendor and vendee, the items sold and the price thereof. Such
595 proof of wholesale sales shall be filed in chronological order and



596 thus preserved for a period of three (3) years from the date of
597 sale. These records shall be subject to inspection by the
598 commissioner and his agents, at their discretion, for the
599 verification of returns filed by either the wholesaler or his
600 customers.

601 The substantiation of an exempt sale must be by an invoice
602 containing the same information as required for the wholesale
603 sales. This requirement shall apply equally to a retailer making
604 wholesale or exempt sales.

605 Any failure to comply with all the above requirements shall
606 subject the violator to the retail rate of tax on all such
607 violations.

608 **SECTION 11.** Section 27-65-25, Mississippi Code of 1972, is
609 amended as follows:

610 27-65-25. Upon every person engaging or continuing within
611 this state in the business of selling alcoholic beverages at
612 retail, the sales of which are legal under the provisions of
613 Chapter 1 of Title 67, Mississippi Code of 1972, there is hereby
614 levied, assessed and shall be collected a tax equal to seven
615 percent (7%) of the gross proceeds of the retail sales of the
616 business. * * *

617 **SECTION 12.** Section 7-7-211, Mississippi Code of 1972, is
618 amended as follows:

619 7-7-211. The department shall have the power and it shall be
620 its duty:



621 (a) To identify and define for all public offices of
622 the state and its subdivisions generally accepted accounting
623 principles or other accounting principles as promulgated by
624 nationally recognized professional organizations and to consult
625 with the State Fiscal Officer in the prescription and
626 implementation of accounting rules and regulations;

627 (b) To provide best practices, for all public offices
628 of regional and local subdivisions of the state, systems of
629 accounting, budgeting and reporting financial facts relating to
630 said offices in conformity with legal requirements and with
631 generally accepted accounting principles or other accounting
632 principles as promulgated by nationally recognized professional
633 organizations; to assist such subdivisions in need of assistance
634 in the installation of such systems; to revise such systems when
635 deemed necessary, and to report to the Legislature at periodic
636 times the extent to which each office is maintaining such systems,
637 along with such recommendations to the Legislature for improvement
638 as seem desirable;

639 (c) To study and analyze existing managerial policies,
640 methods, procedures, duties and services of the various state
641 departments and institutions upon written request of the Governor,
642 the Legislature or any committee or other body empowered by the
643 Legislature to make such request to determine whether and where
644 operations can be eliminated, combined, simplified and improved;



645 (d) To postaudit each year and, when deemed necessary,
646 preaudit and investigate the financial affairs of the departments,
647 institutions, boards, commissions, or other agencies of state
648 government, as part of the publication of a comprehensive annual
649 financial report for the State of Mississippi, or as deemed
650 necessary by the State Auditor. In complying with the
651 requirements of this paragraph, the department shall have the
652 authority to conduct all necessary audit procedures on an interim
653 and year-end basis;

654 (e) To postaudit and, when deemed necessary, preaudit
655 and investigate separately the financial affairs of (i) the
656 offices, boards and commissions of county governments and any
657 departments and institutions thereof and therein; (ii) public
658 school districts, departments of education and junior college
659 districts; and (iii) any other local offices or agencies which
660 share revenues derived from taxes or fees imposed by the State
661 Legislature or receive grants from revenues collected by
662 governmental divisions of the state; the cost of such audits,
663 investigations or other services to be paid as follows: Such part
664 shall be paid by the state from appropriations made by the
665 Legislature for the operation of the State Department of Audit as
666 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
667 for the services of each staff person engaged in performing the
668 audit or other service plus the actual cost of any independent
669 specialist firm contracted by the State Auditor to assist in the



670 performance of the audit, which sum shall be paid by the county,
671 district, department, institution or other agency audited out of
672 its general fund or any other available funds from which such
673 payment is not prohibited by law. Costs paid for independent
674 specialists or firms contracted by the State Auditor shall be paid
675 by the audited entity through the State Auditor to the specialist
676 or firm conducting the postaudit.

677 Each school district in the state shall have its financial
678 records audited annually, at the end of each fiscal year, either
679 by the State Auditor or by a certified public accountant approved
680 by the State Auditor. Beginning with the audits of fiscal year
681 2010 activity, no certified public accountant shall be selected to
682 perform the annual audit of a school district who has audited that
683 district for three (3) or more consecutive years previously.
684 Certified public accountants shall be selected in a manner
685 determined by the State Auditor. The school district shall have
686 the responsibility to pay for the audit, including the review by
687 the State Auditor of audits performed by certified public
688 accountants;

689 (f) To postaudit and, when deemed necessary, preaudit
690 and investigate the financial affairs of the levee boards;
691 agencies created by the Legislature or by executive order of the
692 Governor; profit or nonprofit business entities administering
693 programs financed by funds flowing through the State Treasury or
694 through any of the agencies of the state, or its subdivisions; and



695 all other public bodies supported by funds derived in part or
696 wholly from public funds, except municipalities which annually
697 submit an audit prepared by a qualified certified public
698 accountant using methods and procedures prescribed by the
699 department;

700 (g) To make written demand, when necessary, for the
701 recovery of any amounts representing public funds improperly
702 withheld, misappropriated and/or otherwise illegally expended by
703 an officer, employee or administrative body of any state, county
704 or other public office, and/or for the recovery of the value of
705 any public property disposed of in an unlawful manner by a public
706 officer, employee or administrative body, such demands to be made
707 (i) upon the person or persons liable for such amounts and upon
708 the surety on official bond thereof, and/or (ii) upon any
709 individual, partnership, corporation or association to whom the
710 illegal expenditure was made or with whom the unlawful disposition
711 of public property was made, if such individual, partnership,
712 corporation or association knew or had reason to know through the
713 exercising of reasonable diligence that the expenditure was
714 illegal or the disposition unlawful. Such demand shall be
715 premised on competent evidence, which shall include at least one
716 (1) of the following: (i) sworn statements, (ii) written
717 documentation, (iii) physical evidence, or (iv) reports and
718 findings of government or other law enforcement agencies. Other
719 provisions notwithstanding, a demand letter issued pursuant to



720 this paragraph shall remain confidential by the State Auditor
721 until the individual against whom the demand letter is being filed
722 has been served with a copy of such demand letter. If, however,
723 such individual cannot be notified within fifteen (15) days using
724 reasonable means and due diligence, such notification shall be
725 made to the individual's bonding company, if he or she is bonded.
726 Each such demand shall be paid into the proper treasury of the
727 state, county or other public body through the office of the
728 department in the amount demanded within thirty (30) days from the
729 date thereof, together with interest thereon in the sum of one
730 percent (1%) per month from the date such amount or amounts were
731 improperly withheld, misappropriated and/or otherwise illegally
732 expended. In the event, however, such person or persons or such
733 surety shall refuse, neglect or otherwise fail to pay the amount
734 demanded and the interest due thereon within the allotted thirty
735 (30) days, the State Auditor shall have the authority and it shall
736 be his duty to institute suit, and the Attorney General shall
737 prosecute the same in any court of the state to the end that there
738 shall be recovered the total of such amounts from the person or
739 persons and surety on official bond named therein; and the amounts
740 so recovered shall be paid into the proper treasury of the state,
741 county or other public body through the State Auditor. In any
742 case where written demand is issued to a surety on the official
743 bond of such person or persons and the surety refuses, neglects or
744 otherwise fails within one hundred twenty (120) days to either pay



745 the amount demanded and the interest due thereon or to give the
746 State Auditor a written response with specific reasons for
747 nonpayment, then the surety shall be subject to a civil penalty in
748 an amount of twelve percent (12%) of the bond, not to exceed Ten
749 Thousand Dollars (\$10,000.00), to be deposited into the State
750 General Fund;

751 (h) To investigate any alleged or suspected violation
752 of the laws of the state by any officer or employee of the state,
753 county or other public office in the purchase, sale or the use of
754 any supplies, services, equipment or other property belonging
755 thereto; and in such investigation to do any and all things
756 necessary to procure evidence sufficient either to prove or
757 disprove the existence of such alleged or suspected violations.
758 The * * * Division of Investigation of the State Department of
759 Audit may investigate, for the purpose of prosecution, any
760 suspected criminal violation of the provisions of this chapter.
761 For the purpose of administration and enforcement of this chapter,
762 the enforcement employees of the * * * Division of Investigation
763 of the State Department of Audit have the powers of a law
764 enforcement officer of this state, and shall be empowered to make
765 arrests and to serve and execute search warrants and other valid
766 legal process anywhere within the State of Mississippi. All
767 enforcement employees of the * * * Division of Investigation of
768 the State Department of Audit hired on or after July 1, 1993,



769 shall be required to complete the Law Enforcement Officers
770 Training Program and shall meet the standards of the program;

771 (i) To issue subpoenas, with the approval of, and
772 returnable to, a judge of a chancery or circuit court, in termtime
773 or in vacation, to examine the records, documents or other
774 evidence of persons, firms, corporations or any other entities
775 insofar as such records, documents or other evidence relate to
776 dealings with any state, county or other public entity. The
777 circuit or chancery judge must serve the county in which the
778 records, documents or other evidence is located; or where all or
779 part of the transaction or transactions occurred which are the
780 subject of the subpoena;

781 (j) In any instances in which the State Auditor is or
782 shall be authorized or required to examine or audit, whether
783 preaudit or postaudit, any books, ledgers, accounts or other
784 records of the affairs of any public hospital owned or owned and
785 operated by one or more political subdivisions or parts thereof or
786 any combination thereof, or any school district, including
787 activity funds thereof, it shall be sufficient compliance
788 therewith, in the discretion of the State Auditor, that such
789 examination or audit be made from the report of any audit or other
790 examination certified by a certified public accountant and
791 prepared by or under the supervision of such certified public
792 accountant. Such audits shall be made in accordance with
793 generally accepted standards of auditing, with the use of an audit



794 program prepared by the State Auditor, and final reports of such
795 audits shall conform to the format prescribed by the State
796 Auditor. All files, working papers, notes, correspondence and all
797 other data compiled during the course of the audit shall be
798 available, without cost, to the State Auditor for examination and
799 abstracting during the normal business hours of any business day.
800 The expense of such certified reports shall be borne by the
801 respective hospital, or any available school district funds other
802 than minimum program funds, subject to examination or audit. The
803 State Auditor shall not be bound by such certified reports and
804 may, in his or their discretion, conduct such examination or audit
805 from the books, ledgers, accounts or other records involved as may
806 be appropriate and authorized by law;

807 (k) The State Auditor shall have the authority to
808 contract with qualified public accounting firms to perform
809 selected audits required in paragraphs (d), (e), (f) and (j) of
810 this section, if funds are made available for such contracts by
811 the Legislature, or if funds are available from the governmental
812 entity covered by paragraphs (d), (e), (f) and (j). Such audits
813 shall be made in accordance with generally accepted standards of
814 auditing. All files, working papers, notes, correspondence and
815 all other data compiled during the course of the audit shall be
816 available, without cost, to the State Auditor for examination and
817 abstracting during the normal business hours of any business day;



818 (1) The State Auditor shall have the authority to
819 establish training courses and programs for the personnel of the
820 various state and local governmental entities under the
821 jurisdiction of the Office of the State Auditor. The training
822 courses and programs shall include, but not be limited to, topics
823 on internal control of funds, property and equipment control and
824 inventory, governmental accounting and financial reporting, and
825 internal auditing. The State Auditor is authorized to charge a
826 fee from the participants of these courses and programs, which fee
827 shall be deposited into the Department of Audit Special Fund.
828 State and local governmental entities are authorized to pay such
829 fee and any travel expenses out of their general funds or any
830 other available funds from which such payment is not prohibited by
831 law;

832 (m) Upon written request by the Governor or any member
833 of the State Legislature, the State Auditor may audit any state
834 funds and/or state and federal funds received by any nonprofit
835 corporation incorporated under the laws of this state;

836 (n) To conduct performance audits of personal or
837 professional service contracts by state agencies on a random
838 sampling basis, or upon request of the State Personal Service
839 Contract Review Board under Section 25-9-120(3);

840 (o) At the discretion of the State Auditor, the Auditor
841 may conduct risk assessments, as well as performance and
842 compliance audits based on Generally Accepted Government Auditing



843 Standards (GAGAS) of any state-funded economic development program
844 authorized under Title 57, Mississippi Code of 1972. After risk
845 assessments or program audits, the State Auditor may conduct
846 audits of those projects deemed high-risk, specifically as they
847 identify any potential wrongdoing or noncompliance based on
848 objectives of the economic development program. The Auditor is
849 granted authority to gather, audit and review data and information
850 from the Mississippi Development Authority or any of its agents,
851 the Department of Revenue or its warehouse operator, and when
852 necessary under this paragraph, the recipient business or
853 businesses or any other private, public or nonprofit entity with
854 information relevant to the audit project. The maximum amount the
855 State Auditor may bill the oversight agency under this paragraph
856 in any fiscal year is One Hundred Thousand Dollars (\$100,000.00),
857 based on reasonable and necessary expenses;

858 (p) To review and approve any independent auditor
859 selected by the Mississippi Lottery Corporation in accordance with
860 Section 27-115-89, to conduct an annual audit of the corporation;
861 and

862 (q) To conduct audits or investigations of the
863 Mississippi Lottery Corporation if in the opinion of the State
864 Auditor conditions justify such audits or investigations.

865 **SECTION 13.** Section 27-71-7, Mississippi Code of 1972, is
866 amended as follows:



867 27-71-7. (1) There is hereby levied and assessed an excise
868 tax upon each case of alcoholic beverages sold by the department
869 or its warehouse operator to be collected from each retail
870 licensee at the time of sale in accordance with the following
871 schedule:

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

876 (2) (a) In addition to the tax levied by subsection (1) of
877 this section, and in addition to any other markup collected, the
878 Alcoholic Beverage Control Division shall collect a markup of
879 three percent (3%) on all alcoholic beverages, as defined in
880 Section 67-1-5, Mississippi Code of 1972, which are sold by
881 the * * * department or its warehouse operator. The proceeds of
882 the markup shall be collected by the * * * department or its
883 warehouse operator from each purchaser at the time of purchase.

884 (b) Until June 30, 1987, the revenue derived from this
885 three percent (3%) markup shall be deposited by the division in
886 the State Treasury to the credit of the "Alcoholism Treatment and
887 Rehabilitation Fund," a special fund which is hereby created in
888 the State Treasury, and shall be used by the Division of Alcohol
889 and Drug Abuse of the State Department of Mental Health and public
890 or private centers or organizations solely for funding of
891 treatment and rehabilitation programs for alcoholics and alcohol



892 abusers which are sponsored by the division or public or private
893 centers or organizations in such amounts as the Legislature may
894 appropriate to the division for use by the division or public or
895 private centers or organizations for such programs. Any tax
896 revenue in the fund which is not encumbered at the end of the
897 fiscal year shall lapse to the General Fund. It is the intent of
898 the Legislature that the State Department of Mental Health shall
899 continue to seek funds from other sources and shall use the funds
900 appropriated for the purposes of this section and Section 27-71-29
901 to match all federal funds which may be available for alcoholism
902 treatment and rehabilitation.

903 From and after July 1, 1987, the revenue derived from this
904 three percent (3%) markup shall be deposited by the division in
905 the State Treasury to the credit of the "Mental Health Programs
906 Fund," a special fund which is hereby created in the State
907 Treasury and shall be used by the State Department of Mental
908 Health for the service programs of the department. Any revenue in
909 the "Alcoholism Treatment and Rehabilitation Fund" which is not
910 encumbered at the end of Fiscal Year 1987 shall be deposited to
911 the credit of the "Mental Health Programs Fund."

912 **SECTION 14.** Section 27-71-9, Mississippi Code of 1972, is
913 amended as follows:

914 27-71-9. The * * * department may promulgate regulations
915 authorizing persons holding on-premises retailer's permits for
916 common carriers, as provided herein, to file periodic reports and



917 pay a tax based upon the value of alcoholic beverages sold while
918 in this state, in lieu of purchasing all such alcoholic beverages
919 from the * * * department or its warehouse operator. Such tax
920 shall not be less than an amount equivalent to the gross profit
921 plus all taxes that would have been derived from the sale of a
922 like quantity of alcoholic beverages by the * * * department or
923 its warehouse operator.

924 **SECTION 15.** Section 27-71-13, Mississippi Code of 1972, is
925 amended as follows:

926 27-71-13. The * * * department or its warehouse operator
927 shall purchase directly from the manufacturer, except under the
928 following conditions:

929 (a) Foreign brands which are not readily obtainable
930 directly from the manufacturer.

931 (b) When the * * * department or its warehouse operator
932 can conclusively prove that unusual or extraordinary circumstances
933 exist and the required or desired brands can be purchased at
934 substantially lower prices from wholesalers or brokerage firms.

935 In all instances involving purchases, other than directly
936 from the manufacturer, the * * * department or its warehouse
937 operator shall maintain full and complete records clearly
938 reflecting the justification for such purchases. Said records
939 shall include invoices, price lists, comparative prices, bills of
940 lading and a certificate of justification signed by the director
941 of the * * * division or the appropriate authority of the



942 department's warehouse operator, as to the conditions requiring
943 the purchase or purchases. All such records shall be retained for
944 a period of three (3) years.

945 **SECTION 16.** Section 27-71-15, Mississippi Code of 1972, is
946 amended as follows:

947 27-71-15. Except as otherwise provided in Section 67-9-1 for
948 the transportation of limited amounts of alcoholic beverages for
949 the use of an alcohol processing permittee, if transportation
950 requires passage through a county which has not authorized the
951 sale of alcoholic beverages, such transportation shall be by a
952 sealed vehicle. Such seal shall remain unbroken until the vehicle
953 shall reach the place of business operated by the permittee. The
954 operator of any vehicle transporting alcoholic beverages shall
955 have in his possession an invoice issued by the * * * department
956 or its warehouse operator at the time of the wholesale sale
957 covering the merchandise transported by the vehicle. The * * *
958 department is authorized to issue regulations controlling the
959 transportation of alcoholic beverages.

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



966 **SECTION 17.** Section 27-71-17, Mississippi Code of 1972, is
967 amended as follows:

968 27-71-17. It shall be unlawful for any person to counterfeit
969 or reuse any label prescribed by the * * * department and used to
970 identify alcoholic beverages sold at wholesale by the * * *
971 department or its warehouse operator and, upon conviction, the
972 person shall be punished by a fine of not more than Five Thousand
973 Dollars (\$5,000.00), or by imprisonment in the State Penitentiary
974 for not less than one (1) year, nor more than ten (10) years, or
975 both.

976 **SECTION 18.** Section 67-1-5, Mississippi Code of 1972, is
977 amended as follows:

978 67-1-5. For the purposes of this chapter and unless
979 otherwise required by the context:

980 (a) "Alcoholic beverage" means any alcoholic liquid,
981 including wines of more than five percent (5%) of alcohol by
982 weight, capable of being consumed as a beverage by a human being,
983 but shall not include light wine, light spirit product and beer,
984 as defined in Section 67-3-3, Mississippi Code of 1972, but shall
985 include native wines and native spirits. The words "alcoholic
986 beverage" shall not include ethyl alcohol manufactured or
987 distilled solely for fuel purposes or beer of an alcoholic content
988 of more than eight percent (8%) by weight if the beer is legally
989 manufactured in this state for sale in another state.



990 (b) "Alcohol" means the product of distillation of any
991 fermented liquid, whatever the origin thereof, and includes
992 synthetic ethyl alcohol, but does not include denatured alcohol or
993 wood alcohol.

994 (c) "Distilled spirits" means any beverage containing
995 more than six percent (6%) of alcohol by weight produced by
996 distillation of fermented grain, starch, molasses or sugar,
997 including dilutions and mixtures of these beverages.

998 (d) "Wine" or "vinous liquor" means any product
999 obtained from the alcoholic fermentation of the juice of sound,
1000 ripe grapes, fruits, honey or berries and made in accordance with
1001 the revenue laws of the United States.

1002 (e) "Person" means and includes any individual,
1003 partnership, corporation, association or other legal entity
1004 whatsoever.

1005 (f) "Manufacturer" means any person engaged in
1006 manufacturing, distilling, rectifying, blending or bottling any
1007 alcoholic beverage.

1008 (g) "Wholesaler" means any person, other than a
1009 manufacturer, engaged in distributing or selling any alcoholic
1010 beverage at wholesale for delivery within or without this state
1011 when such sale is for the purpose of resale by the purchaser.

1012 (h) "Retailer" means any person who sells, distributes,
1013 or offers for sale or distribution, any alcoholic beverage for use
1014 or consumption by the purchaser and not for resale.



1015 (i) "State Tax Commission," "commission" or
1016 "department" means the Department of Revenue of the State of
1017 Mississippi, which shall create a division in its organization to
1018 be known as the Alcoholic Beverage Control Division. Any
1019 reference to the commission or the department hereafter means the
1020 powers and duties of the Department of Revenue with reference to
1021 supervision of the Alcoholic Beverage Control Division.

1022 (j) "Division" means the Alcoholic Beverage Control
1023 Division of the Department of Revenue.

1024 (k) "Municipality" means any incorporated city or town
1025 of this state.

1026 (l) "Hotel" means an establishment within a
1027 municipality, or within a qualified resort area approved as such
1028 by the department, where, in consideration of payment, food and
1029 lodging are habitually furnished to travelers and wherein are
1030 located at least twenty (20) adequately furnished and completely
1031 separate sleeping rooms with adequate facilities that persons
1032 usually apply for and receive as overnight accommodations. Hotels
1033 in towns or cities of more than twenty-five thousand (25,000)
1034 population are similarly defined except that they must have fifty
1035 (50) or more sleeping rooms. Any such establishment described in
1036 this paragraph with less than fifty (50) beds shall operate one or
1037 more regular dining rooms designed to be constantly frequented by
1038 customers each day. When used in this chapter, the word "hotel"
1039 shall also be construed to include any establishment that meets



1040 the definition of "bed and breakfast inn" as provided in this
1041 section.

1042 (m) "Restaurant" means:

1043 (i) A place which is regularly and in a bona fide
1044 manner used and kept open for the serving of meals to guests for
1045 compensation, which has suitable seating facilities for guests,
1046 and which has suitable kitchen facilities connected therewith for
1047 cooking an assortment of foods and meals commonly ordered at
1048 various hours of the day; the service of such food as sandwiches
1049 and salads only shall not be deemed in compliance with this
1050 requirement. Except as otherwise provided in this paragraph, no
1051 place shall qualify as a restaurant under this chapter unless
1052 twenty-five percent (25%) or more of the revenue derived from such
1053 place shall be from the preparation, cooking and serving of meals
1054 and not from the sale of beverages, or unless the value of food
1055 given to and consumed by customers is equal to twenty-five percent
1056 (25%) or more of total revenue; or

1057 (ii) Any privately owned business located in a
1058 building in a historic district where the district is listed in
1059 the National Register of Historic Places, where the building has a
1060 total occupancy rating of not less than one thousand (1,000) and
1061 where the business regularly utilizes ten thousand (10,000) square
1062 feet or more in the building for live entertainment, including not
1063 only the stage, lobby or area where the audience sits and/or
1064 stands, but also any other portion of the building necessary for



1065 the operation of the business, including any kitchen area, bar
1066 area, storage area and office space, but excluding any area for
1067 parking. In addition to the other requirements of this
1068 subparagraph, the business must also serve food to guests for
1069 compensation within the building and derive the majority of its
1070 revenue from event-related fees, including, but not limited to,
1071 admission fees or ticket sales to live entertainment in the
1072 building, and from the rental of all or part of the facilities of
1073 the business in the building to another party for a specific event
1074 or function.

1075 (n) "Club" means an association or a corporation:

1076 (i) Organized or created under the laws of this
1077 state for a period of five (5) years prior to July 1, 1966;

1078 (ii) Organized not primarily for pecuniary profit
1079 but for the promotion of some common object other than the sale or
1080 consumption of alcoholic beverages;

1081 (iii) Maintained by its members through the
1082 payment of annual dues;

1083 (iv) Owning, hiring or leasing a building or space
1084 in a building of such extent and character as may be suitable and
1085 adequate for the reasonable and comfortable use and accommodation
1086 of its members and their guests;

1087 (v) The affairs and management of which are
1088 conducted by a board of directors, board of governors, executive



1089 committee, or similar governing body chosen by the members at a
1090 regular meeting held at some periodic interval; and

1091 (vi) No member, officer, agent or employee of
1092 which is paid, or directly or indirectly receives, in the form of
1093 a salary or other compensation any profit from the distribution or
1094 sale of alcoholic beverages to the club or to members or guests of
1095 the club beyond such salary or compensation as may be fixed and
1096 voted at a proper meeting by the board of directors or other
1097 governing body out of the general revenues of the club.

1098 The department may, in its discretion, waive the five-year
1099 provision of this paragraph. In order to qualify under this
1100 paragraph, a club must file with the department, at the time of
1101 its application for a license under this chapter, two (2) copies
1102 of a list of the names and residences of its members and similarly
1103 file, within ten (10) days after the election of any additional
1104 member, his name and address. Each club applying for a license
1105 shall also file with the department at the time of the application
1106 a copy of its articles of association, charter of incorporation,
1107 bylaws or other instruments governing the business and affairs
1108 thereof.

1109 (o) "Qualified resort area" means any area or locality
1110 outside of the limits of incorporated municipalities in this state
1111 commonly known and accepted as a place which regularly and
1112 customarily attracts tourists, vacationists and other transients
1113 because of its historical, scenic or recreational facilities or



1114 attractions, or because of other attributes which regularly and
1115 customarily appeal to and attract tourists, vacationists and other
1116 transients in substantial numbers; however, no area or locality
1117 shall so qualify as a resort area until it has been duly and
1118 properly approved as such by the department. The department may
1119 not approve an area as a qualified resort area after July 1, 2018,
1120 if any portion of such proposed area is located within two (2)
1121 miles of a convent or monastery that is located in a county
1122 traversed by Interstate 55 and U.S. Highway 98. A convent or
1123 monastery may waive such distance restrictions in favor of
1124 allowing approval by the department of an area as a qualified
1125 resort area. Such waiver shall be in written form from the owner,
1126 the governing body, or the appropriate officer of the convent or
1127 monastery having the authority to execute such a waiver, and the
1128 waiver shall be filed with and verified by the department before
1129 becoming effective.

1130 (i) The department may approve an area or locality
1131 outside of the limits of an incorporated municipality that is in
1132 the process of being developed as a qualified resort area if such
1133 area or locality, when developed, can reasonably be expected to
1134 meet the requisites of the definition of the term "qualified
1135 resort area." In such a case, the status of qualified resort area
1136 shall not take effect until completion of the development.

1137 (ii) The term includes any state park which is
1138 declared a resort area by the department; however, such



1139 declaration may only be initiated in a written request for resort
1140 area status made to the department by the Executive Director of
1141 the Department of Wildlife, Fisheries and Parks, and no permit for
1142 the sale of any alcoholic beverage, as defined in this chapter,
1143 except an on-premises retailer's permit, shall be issued for a
1144 hotel, restaurant or bed and breakfast inn in such park.

1145 (iii) The term includes:

1146 1. The clubhouses associated with the state
1147 park golf courses at the Lefleur's Bluff State Park, the John Kyle
1148 State Park, the Percy Quin State Park and the Hugh White State
1149 Park;

1150 2. The clubhouse and associated golf course,
1151 tennis courts and related facilities and swimming pool and related
1152 facilities where the golf course, tennis courts and related
1153 facilities and swimming pool and related facilities are adjacent
1154 to one or more planned residential developments and the golf
1155 course and all such developments collectively include at least
1156 seven hundred fifty (750) acres and at least four hundred (400)
1157 residential units;

1158 3. Any facility located on property that is a
1159 game reserve with restricted access that consists of at least
1160 three thousand (3,000) contiguous acres with no public roads and
1161 that offers as a service hunts for a fee to overnight guests of
1162 the facility;



1163 4. Any facility located on federal property
1164 surrounding a lake and designated as a recreational area by the
1165 United States Army Corps of Engineers that consists of at least
1166 one thousand five hundred (1,500) acres;

1167 5. Any facility that is located in a
1168 municipality that is bordered by the Pearl River, traversed by
1169 Mississippi Highway 25, adjacent to the boundaries of the Jackson
1170 International Airport and is located in a county which has voted
1171 against coming out from under the dry law; however, any such
1172 facility may only be located in areas designated by the governing
1173 authorities of such municipality;

1174 6. Any municipality with a population in
1175 excess of ten thousand (10,000) according to the latest federal
1176 decennial census that is located in a county that is bordered by
1177 the Pearl River and is not traversed by Interstate Highway 20,
1178 with a population in excess of forty-five thousand (45,000)
1179 according to the latest federal decennial census; however, the
1180 governing authorities of such a municipality may by ordinance:

1181 a. Specify the hours of operation of
1182 facilities that offer alcoholic beverages for sale;

1183 b. Specify the percentage of revenue
1184 that facilities that offer alcoholic beverages for sale must
1185 derive from the preparation, cooking and serving of meals and not
1186 from the sale of beverages;



1187 c. Designate the areas in which
1188 facilities that offer alcoholic beverages for sale may be located;

1189 7. The West Pearl Restaurant Tax District as
1190 defined in Chapter 912, Local and Private Laws of 2007;

1191 8. a. Land that is located in any county in
1192 which Mississippi Highway 43 and Mississippi Highway 25 intersect
1193 and:

1194 A. Owned by the Pearl River Valley
1195 Water Supply District, and/or

1196 B. Located within the Reservoir
1197 Community District, zoned commercial, east of Old Fannin Road,
1198 north of Regatta Drive, south of Spillway Road, west of Hugh Ward
1199 Boulevard and accessible by Old Fannin Road, Spillway Road, Spann
1200 Drive and/or Lake Vista Place, and/or

1201 C. Located within the Reservoir
1202 Community District, zoned commercial, west of Old Fannin Road,
1203 south of Spillway Road and extending to the boundary of the
1204 corporate limits of the City of Flowood, Mississippi;

1205 b. The board of supervisors of such
1206 county, with respect to B and C of item 8.a., may by resolution or
1207 other order:

1208 A. Specify the hours of operation
1209 of facilities that offer alcoholic beverages for sale,

1210 B. Specify the percentage of
1211 revenue that facilities that offer alcoholic beverages for sale



1212 must derive from the preparation, cooking and serving of meals and
1213 not from the sale of beverages, and

1214 C. Designate the areas in which
1215 facilities that offer alcoholic beverages for sale may be located;

1216 9. Any facility located on property that is a
1217 game reserve with restricted access that consists of at least
1218 eight hundred (800) contiguous acres with no public roads, that
1219 offers as a service hunts for a fee to overnight guests of the
1220 facility, and has accommodations for at least fifty (50) overnight
1221 guests;

1222 10. Any facility that:

1223 a. Consists of at least six thousand
1224 (6,000) square feet being heated and cooled along with an
1225 additional adjacent area that consists of at least two thousand
1226 two hundred (2,200) square feet regardless of whether heated and
1227 cooled,

1228 b. For a fee is used to host events such
1229 as weddings, reunions and conventions,

1230 c. Provides lodging accommodations
1231 regardless of whether part of the facility and/or located adjacent
1232 to or in close proximity to the facility, and

1233 d. Is located on property that consists
1234 of at least thirty (30) contiguous acres;

1235 11. Any facility and related property:



1236 a. Located on property that consists of
1237 at least one hundred twenty-five (125) contiguous acres and
1238 consisting of an eighteen (18) hole golf course, and/or located in
1239 a facility that consists of at least eight thousand (8,000) square
1240 feet being heated and cooled,

1241 b. Used for the purpose of providing
1242 meals and hosting events, and

1243 c. Used for the purpose of teaching
1244 culinary arts courses and/or turf management and grounds keeping
1245 courses, and/or outdoor recreation and leadership courses;

1246 12. Any facility and related property that:

1247 a. Consist of at least eight thousand
1248 (8,000) square feet being heated and cooled,

1249 b. For a fee is used to host events,

1250 c. Is used for the purpose of culinary
1251 arts courses, and/or live entertainment courses and art
1252 performances, and/or outdoor recreation and leadership courses;

1253 13. The clubhouse and associated golf course
1254 where the golf course is adjacent to one or more residential
1255 developments and the golf course and all such developments
1256 collectively include at least two hundred (200) acres and at least
1257 one hundred fifty (150) residential units and are located a. in a
1258 county that has voted against coming out from under the dry law;
1259 and b. outside of but in close proximity to a municipality in such



1260 county which has voted under Section 67-1-14, after January 1,
1261 2013, to come out from under the dry law;

1262 14. The clubhouse and associated eighteen
1263 (18) hole golf course located in a municipality traversed by
1264 Interstate Highway 55 and U.S. Highway 51 that has voted to come
1265 out from under the dry law;

1266 15. a. Land that is planned for mixed use
1267 development and consists of at least two hundred (200) contiguous
1268 acres with one or more planned residential developments
1269 collectively planned to include at least two hundred (200)
1270 residential units when completed, and also including a facility
1271 that consists of at least four thousand (4,000) square feet that
1272 is not part of such land but is located adjacent to or in close
1273 proximity thereto, and which land is located:

1274 A. In a county that has voted to
1275 come out from under the dry law,

1276 B. Outside the corporate limits of
1277 any municipality in such county and adjacent to or in close
1278 proximity to a golf course located in a municipality in such
1279 county, and

1280 C. Within one (1) mile of a state
1281 institution of higher learning;

1282 b. The board of supervisors of such
1283 county may by resolution or other order:



1284 A. Specify the hours of operation
1285 of facilities that offer alcoholic beverages for sale,

1286 B. Specify the percentage of
1287 revenue that facilities that offer alcoholic beverages for sale
1288 must derive from the preparation, cooking and serving of meals and
1289 not from the sale of beverages, and

1290 C. Designate the areas in which
1291 facilities that offer alcoholic beverages for sale may be located;

1292 16. Any facility with a capacity of five
1293 hundred (500) people or more, to be used as a venue for private
1294 events, on a tract of land in the Southwest Quarter of Section 33,
1295 Township 2 South, Range 7 East, of a county where U.S. Highway 45
1296 and U.S. Highway 72 intersect and that has not voted to come out
1297 from under the dry law;

1298 17. One hundred five (105) contiguous acres,
1299 more or less, located in Hinds County, Mississippi, and in the
1300 City of Jackson, Mississippi, whereon are constructed a variety of
1301 buildings, improvements, grounds or objects for the purpose of
1302 holding events thereon to promote agricultural and industrial
1303 development in Mississippi;

1304 18. Land that is owned by a state institution
1305 of higher learning and:

1306 a. Located entirely within a county that
1307 has elected by majority vote not to permit the transportation,



1308 storage, sale, distribution, receipt and/or manufacture of light
1309 wine and beer pursuant to Section 67-3-7, and

1310 b. Adjacent to but outside the
1311 incorporated limits of a municipality that has elected by majority
1312 vote to permit the sale, receipt, storage and transportation of
1313 light wine and beer pursuant to Section 67-3-9.

1314 If any portion of the land described in this item 18 has been
1315 declared a qualified resort area by the department before July 1,
1316 2020, then that qualified resort area shall be incorporated into
1317 the qualified resort area created by this item 18;

1318 19. Any facility and related property:

1319 a. Used as a flea market or similar
1320 venue during a weekend (Saturday and Sunday) immediately preceding
1321 the first Monday of a month and having an annual average of at
1322 least one thousand (1,000) visitors for each such weekend and five
1323 hundred (500) vendors for Saturday of each such weekend, and

1324 b. Located in a county that has not
1325 voted to come out from under the dry law and outside of but in
1326 close proximity to a municipality located in such county and which
1327 municipality has voted to come out from under the dry law;

1328 20. Blocks 1, 2 and 3 of the original town
1329 square in any municipality with a population in excess of one
1330 thousand five hundred (1,500) according to the latest federal
1331 decennial census and which is located in:



1332 a. A county traversed by Interstate 55
1333 and Interstate 20, and

1334 b. A judicial district that has not
1335 voted to come out from under the dry law;

1336 21. Any municipality with a population in
1337 excess of two thousand (2,000) according to the latest federal
1338 decennial census and in which is located a part of White's Creek
1339 Lake and in which U.S. Highway 82 intersects with Mississippi
1340 Highway 9 and located in a county that is partially bordered on
1341 one (1) side by the Big Black River; however, the governing
1342 authorities of such a municipality may by ordinance:

1343 a. Specify the hours of operation of
1344 facilities that offer alcoholic beverages for sale;

1345 b. Specify the percentage of revenue
1346 that facilities that offer alcoholic beverages for sale must
1347 derive from the preparation, cooking and serving of meals and not
1348 from the sale of beverages; and

1349 c. Designate the areas in which
1350 facilities that offer alcoholic beverages for sale may be located;

1351 22. A restaurant located on a two-acre tract
1352 adjacent to a five-hundred-fifty-acre lake in the northeast corner
1353 of a county traversed by U.S. Interstate 55 and U.S. Highway 84;

1354 23. Any tracts of land in Oktibbeha County,
1355 situated north of Bailey Howell Drive, Lee Boulevard and Old
1356 Mayhew Road, east of George Perry Street and south of Mississippi



1357 Highway 182, and not located on the property of a state
1358 institution of higher learning; however, the board of supervisors
1359 of such county may by resolution or other order:

1360 a. Specify the hours of operation of
1361 facilities that offer alcoholic beverages for sale;

1362 b. Specify the percentage of revenue
1363 that facilities that offer alcoholic beverages for sale must
1364 derive from the preparation, cooking and serving of meals and not
1365 from the sale of beverages; and

1366 c. Designate the areas in which
1367 facilities that offer alcoholic beverages for sale may be located;

1368 24. A municipality in which Mississippi
1369 Highway 27 and Mississippi Highway 28 intersect; however, the
1370 governing authorities of such a municipality may by ordinance:

1371 a. Specify the hours of operation of
1372 facilities offering alcoholic beverages for sale;

1373 b. Specify the percentage of revenue
1374 that facilities offering alcoholic beverages for sale must derive
1375 from the preparation, cooking and serving of meals and not from
1376 the sale of beverages; and

1377 c. Designate the areas in which
1378 facilities offering alcoholic beverages for sale may be located;

1379 25. A municipality through which run
1380 Mississippi Highway 35 and Interstate 20; however, the governing
1381 authorities of such a municipality may by ordinance:



1382 a. Specify the hours of operation of
1383 facilities that offer alcoholic beverages for sale;
1384 b. Specify the percentage of revenue
1385 that facilities that offer alcoholic beverages for sale must
1386 derive from the preparation, cooking and serving of meals and not
1387 from the sale of beverages; and

1388 c. Designate the areas in which
1389 facilities that offer alcoholic beverages for sale may be located;

1390 26. A municipality in which Mississippi
1391 Highway 16 and Mississippi Highway 35 intersect; however, the
1392 governing authorities of such a municipality may by ordinance:

1393 a. Specify the hours of operation of
1394 facilities that offer alcoholic beverages for sale;
1395 b. Specify the percentage of revenue
1396 that facilities that offer alcoholic beverages for sale must
1397 derive from the preparation, cooking and serving of meals and not
1398 from the sale of beverages; and

1399 c. Designate the areas in which
1400 facilities that offer alcoholic beverages for sale may be located;

1401 27. A municipality in which U.S. Highway 82
1402 and Old Highway 61 intersect; however, the governing authorities
1403 of such a municipality may by ordinance:

1404 a. Specify the hours of operation of
1405 facilities that offer alcoholic beverages for sale;



1406 b. Specify the percentage of revenue
1407 that facilities that offer alcoholic beverages for sale must
1408 derive from the preparation, cooking and serving of meals and not
1409 from the sale of beverages; and

1410 c. Designate the areas in which
1411 facilities that offer alcoholic beverages for sale may be located;

1412 28. A municipality in which Mississippi
1413 Highway 8 meets Mississippi Highway 1; however, the governing
1414 authorities of such a municipality may by ordinance:

1415 a. Specify the hours of operation of
1416 facilities that offer alcoholic beverages for sale;

1417 b. Specify the percentage of revenue
1418 that facilities that offer alcoholic beverages for sale must
1419 derive from the preparation, cooking and serving of meals and not
1420 from the sale of beverages; and

1421 c. Designate the areas in which
1422 facilities that offer alcoholic beverages for sale may be located;

1423 29. A municipality in which U.S. Highway 82
1424 and Mississippi Highway 1 intersect; however, the governing
1425 authorities of such a municipality may by ordinance:

1426 a. Specify the hours of operation of
1427 facilities that offer alcoholic beverages for sale;

1428 b. Specify the percentage of revenue
1429 that facilities that offer alcoholic beverages for sale must



1430 derive from the preparation, cooking and serving of meals and not
1431 from the sale of beverages; and

1432 c. Designate the areas in which
1433 facilities that offer alcoholic beverages for sale may be located;

1434 30. A municipality in which Mississippi
1435 Highway 50 meets Mississippi Highway 9; however, the governing
1436 authorities of such a municipality may by ordinance:

1437 a. Specify the hours of operation of
1438 facilities that offer alcoholic beverages for sale;

1439 b. Specify the percentage of revenue
1440 that facilities that offer alcoholic beverages for sale must
1441 derive from the preparation, cooking and serving of meals and not
1442 from the sale of beverages; and

1443 c. Designate the areas in which
1444 facilities that offer alcoholic beverages for sale may be located;

1445 31. An area bounded on the north by Pearl
1446 Street, on the east by West Street, on the south by Court Street
1447 and on the west by Farish Street, within a municipality bordered
1448 on the east by the Pearl River and through which run Interstate 20
1449 and Interstate 55; however, the governing authorities of the
1450 municipality in which such area is located may by ordinance:

1451 a. Specify the hours of operation of
1452 facilities that offer alcoholic beverages for sale;

1453 b. Specify the percentage of revenue
1454 that facilities that offer alcoholic beverages for sale must



1455 derive from the preparation, cooking and serving of meals and not
1456 from the sale of beverages; and

1457 c. Designate the areas in which
1458 facilities that offer alcoholic beverages for sale may be located;

1459 32. Any facility and related property that:

1460 a. Is contracted for mixed-use
1461 development improvements consisting of office and residential
1462 space and a restaurant and lounge, partially occupying the
1463 renovated space of a four-story commercial building which
1464 previously served as a financial institution; and adjacent
1465 property to the west consisting of a single-story office building
1466 that was originally occupied by the Brotherhood of Carpenters and
1467 Joiners of American Local Number 569; and

1468 b. Is situated on a tract of land
1469 consisting of approximately one and one-tenth (1.10) acres, and
1470 the adjacent property to the west consisting of approximately 0.5
1471 acres, located in a municipality which is the seat of county
1472 government, situated south of Interstate 10, traversed by U.S.
1473 Highway 90, partially bordered on one (1) side by the Pascagoula
1474 River and having its most southern boundary bordered by the Gulf
1475 of Mexico, with a population greater than twenty-two thousand
1476 (22,000) according to the 2010 federal decennial census; however,
1477 the governing authorities of such a municipality may by ordinance:

1478 A. Specify the hours of operation
1479 of facilities that offer alcoholic beverages for sale;



1480 B. Specify the percentage of
1481 revenue that facilities that offer alcoholic beverages for sale
1482 must derive from the preparation, cooking and serving of meals and
1483 not from the sale of beverages; and

1484 C. Designate the areas within the
1485 facilities in which alcoholic beverages may be offered for sale;

1486 33. Any facility with a maximum capacity of
1487 one hundred twenty (120) people that consists of at least three
1488 thousand (3,000) square feet being heated and cooled, has a
1489 commercial kitchen, has a pavilion that consists of at least nine
1490 thousand (9,000) square feet and is located on land more
1491 particularly described as follows:

1492 All that part of the East Half of the Northwest Quarter of Section
1493 21, Township 7 South, Range 4 East, Union County, Mississippi,
1494 that lies South of Mississippi State Highway 348 right-of-way and
1495 containing 19.48 acres, more or less.

1496 ALSO,

1497 The Northeast 38 acres of the Southwest Quarter of Section 21,
1498 Township 7 South, Range 4 East, Union County, Mississippi.

1499 ALSO,

1500 The South 81 1/2 acres of the Southwest Quarter of Section 21,
1501 Township 7 South, Range 4 East, Union County, Mississippi; and

1502 34. A municipality in which U.S. Highway 51
1503 and Mississippi Highway 16 intersect; however, the governing
1504 authorities of such a municipality may by ordinance:



1505 a. Specify the hours of operation of
1506 facilities that offer alcoholic beverages for sale;
1507 b. Specify the percentage of revenue
1508 that facilities that offer alcoholic beverages for sale must
1509 derive from the preparation, cooking and serving of meals and not
1510 from the sale of beverages; and

1511 c. Designate the areas in which
1512 facilities that offer alcoholic beverages for sale may be located.

1513 The status of these municipalities, districts, clubhouses,
1514 facilities, golf courses and areas described in subparagraph (iii)
1515 of this paragraph (o) as qualified resort areas does not require
1516 any declaration of same by the department.

1517 (p) "Native wine" means any product, produced in
1518 Mississippi for sale, having an alcohol content not to exceed
1519 twenty-one percent (21%) by weight and made in accordance with
1520 revenue laws of the United States, which shall be obtained
1521 primarily from the alcoholic fermentation of the juice of ripe
1522 grapes, fruits, berries, honey or vegetables grown and produced in
1523 Mississippi; provided that bulk, concentrated or fortified wines
1524 used for blending may be produced without this state and used in
1525 producing native wines. The department shall adopt and promulgate
1526 rules and regulations to permit a producer to import such bulk
1527 and/or fortified wines into this state for use in blending with
1528 native wines without payment of any excise tax that would
1529 otherwise accrue thereon.



1530 (q) "Native winery" means any place or establishment
1531 within the State of Mississippi where native wine is produced, in
1532 whole or in part, for sale.

1533 (r) "Bed and breakfast inn" means an establishment
1534 within a municipality where in consideration of payment, breakfast
1535 and lodging are habitually furnished to travelers and wherein are
1536 located not less than eight (8) and not more than nineteen (19)
1537 adequately furnished and completely separate sleeping rooms with
1538 adequate facilities, that persons usually apply for and receive as
1539 overnight accommodations; however, such restriction on the minimum
1540 number of sleeping rooms shall not apply to establishments on the
1541 National Register of Historic Places. No place shall qualify as a
1542 bed and breakfast inn under this chapter unless on the date of the
1543 initial application for a license under this chapter more than
1544 fifty percent (50%) of the sleeping rooms are located in a
1545 structure formerly used as a residence.

1546 (s) "Board" shall refer to the Board of Tax Appeals of
1547 the State of Mississippi.

1548 (t) "Spa facility" means an establishment within a
1549 municipality or qualified resort area and owned by a hotel where,
1550 in consideration of payment, patrons receive from licensed
1551 professionals a variety of private personal care treatments such
1552 as massages, facials, waxes, exfoliation and hairstyling.

1553 (u) "Art studio or gallery" means an establishment
1554 within a municipality or qualified resort area that is in the sole



1555 business of allowing patrons to view and/or purchase paintings and
1556 other creative artwork.

1557 (v) "Cooking school" means an establishment within a
1558 municipality or qualified resort area and owned by a nationally
1559 recognized company that offers an established culinary education
1560 curriculum and program where, in consideration of payment, patrons
1561 are given scheduled professional group instruction on culinary
1562 techniques. For purposes of this paragraph, the definition of
1563 cooking school shall not include schools or classes offered by
1564 grocery stores, convenience stores or drugstores.

1565 (w) "Campus" means property owned by a public school
1566 district, community or junior college, college or university in
1567 this state where educational courses are taught, school functions
1568 are held, tests and examinations are administered or academic
1569 course credits are awarded; however, the term shall not include
1570 any "restaurant" or "hotel" that is located on property owned by a
1571 community or junior college, college or university in this state,
1572 and is operated by a third party who receives all revenue
1573 generated from food and alcoholic beverage sales.

1574 (x) "Native spirit" shall mean any beverage, produced
1575 in Mississippi for sale, manufactured primarily by the
1576 distillation of fermented grain, starch, molasses or sugar
1577 produced in Mississippi, including dilutions and mixtures of these
1578 beverages. In order to be classified as "native spirit" under the
1579 provisions of this chapter, at least fifty-one percent (51%) of



1580 the finished product by volume shall have been obtained from
1581 distillation of fermented grain, starch, molasses or sugar grown
1582 and produced in Mississippi.

1583 (y) "Native distillery" shall mean any place or
1584 establishment within this state where native spirit is produced in
1585 whole or in part for sale.

1586 (z) "Warehouse operator" shall have the meaning
1587 ascribed in Section 1 of this act.

1588 **SECTION 19.** Section 67-1-9, Mississippi Code of 1972, is
1589 amended as follows:

1590 67-1-9. (1) It shall be unlawful for any person to
1591 manufacture, distill, brew, sell, import into this state, export
1592 from the state, transport, distribute, warehouse, store, solicit,
1593 take order for, bottle, rectify, blend, treat, mix or process any
1594 alcoholic beverage except as authorized in this chapter. However,
1595 nothing contained herein shall prevent importers, wineries and
1596 distillers of alcoholic beverages from storing such alcoholic
1597 beverages in private bonded warehouses located within the State of
1598 Mississippi for the ultimate use and benefit of the Department of
1599 Revenue or its warehouse operator as provided in Section 67-1-41.
1600 The department is hereby authorized to promulgate rules and
1601 regulations for the establishment of such private bonded
1602 warehouses and for the control of alcoholic beverages stored in
1603 such warehouses. Additionally, nothing herein contained shall
1604 prevent any duly licensed practicing physician or dentist from



1605 possessing or using alcoholic liquor in the strict practice of his
1606 profession, or prevent any hospital or other institution caring
1607 for sick and diseased persons, from possessing and using alcoholic
1608 liquor for the treatment of bona fide patients of such hospital or
1609 other institution. Any drugstore employing a licensed pharmacist
1610 may possess and use alcoholic liquors in the combination of
1611 prescriptions of duly licensed physicians. The possession and
1612 dispensation of wine by an authorized representative of any church
1613 for the purpose of conducting any bona fide rite or religious
1614 ceremony conducted by such church shall not be prohibited by this
1615 chapter.

1616 (2) Any person, upon conviction of any provision of this
1617 section, shall be punished as follows:

1618 (a) By a fine of not less than One Hundred Dollars
1619 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
1620 imprisonment in the county jail not less than one (1) week nor
1621 more than three (3) months, or both, for the first conviction
1622 under this section.

1623 (b) By a fine of not less than One Hundred Dollars
1624 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
1625 imprisonment in the county jail not less than sixty (60) days, nor
1626 more than six (6) months, or both fine and imprisonment, for the
1627 second conviction for violating this section.

1628 (c) By a fine of not less than One Hundred Dollars
1629 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by



1630 imprisonment in the State Penitentiary not less than one (1) year,
1631 nor more than five (5) years, or both fine and imprisonment, for
1632 conviction the third time under this section for the violation
1633 thereof after having been twice convicted of its violation.

1634 (3) Nothing in this section shall make it unlawful to
1635 transport bottles or containers of alcoholic beverages that are
1636 legally purchased in this state if the bottles or containers are
1637 unopened and are being transported on state or federal highway.

1638 **SECTION 20.** Section 67-1-19, Mississippi Code of 1972, is
1639 amended as follows:

1640 67-1-19. Except as otherwise noted, the administration and
1641 enforcement of this chapter shall be vested in the Department of
1642 Revenue. There is hereby created the Alcoholic Beverage Control
1643 Division within and as a part of the Department of Revenue.

1644 **SECTION 21.** Section 67-1-33, Mississippi Code of 1972, is
1645 amended as follows:

1646 67-1-33. (1) No member of the Board of Tax Appeals,
1647 Commissioner of Revenue of the Department of Revenue, or person
1648 appointed or employed by the department under this chapter,
1649 including its warehouse operator, shall solicit, accept or receive
1650 any gift, gratuity, emolument or employment from any person
1651 subject to the provisions of this chapter, or from any officer,
1652 agent or employee thereof.

1653 (2) No member of the Board of Tax Appeals, the Commissioner
1654 of Revenue of the Department of Revenue, or person appointed or



1655 employed by the department under this chapter, including its
1656 warehouse operator, shall solicit, request from or recommend,
1657 directly or indirectly, to any person subject to the provisions of
1658 this chapter, or to any officer, agent or employee thereof, the
1659 appointment of any person to any place or position.

1660 (3) Every person subject to the provisions of this chapter,
1661 and every officer, agent or employee thereof, is hereby forbidden
1662 to offer to any member of the Board of Tax Appeals, to the
1663 Commissioner of Revenue or to any person appointed or employed by
1664 the department under this chapter, including its warehouse
1665 operator, any gift, gratuity, emolument or employment.

1666 (4) If any member of the Board of Tax Appeals, the
1667 Commissioner of Revenue or any person appointed or employed by the
1668 department under this chapter, including its warehouse operator,
1669 shall violate any of the provisions of this section, he shall be
1670 removed from the office or employment held by him.

1671 (5) Every person violating the provisions of this section
1672 shall be guilty of a misdemeanor.

1673 (6) For purposes of this provision, the terms "gift,"
1674 "gratuity," "emolument" and "employment" do not include the
1675 payment of expenses associated with social occasions afforded
1676 public servants or any other benefit that does not come within the
1677 definition of "pecuniary benefit" as defined in Section 25-4-103.

1678 **SECTION 22.** Section 67-1-41, Mississippi Code of 1972, is
1679 amended as follows:



1680 67-1-41. (1) The department is hereby created a wholesale
1681 distributor and seller of alcoholic beverages, not including malt
1682 liquors, within the State of Mississippi. It is granted the right
1683 to import and sell alcoholic beverages at wholesale within the
1684 state, and no person who is granted the right to sell, distribute
1685 or receive alcoholic beverages at retail shall purchase any
1686 alcoholic beverages from any source other than the department or
1687 its warehouse operator, except as authorized in subsections (4),
1688 (9) and (12) of this section. The department may establish
1689 warehouses, and the department or its warehouse operator may
1690 purchase alcoholic beverages in such quantities and from such
1691 sources as it may deem desirable and sell the alcoholic beverages
1692 to authorized permittees within the state including, at the
1693 discretion of the department or its warehouse operator, any retail
1694 distributors operating within any military post or qualified
1695 resort areas within the boundaries of the state, keeping a correct
1696 and accurate record of all such transactions and exercising such
1697 control over the distribution of alcoholic beverages as seem right
1698 and proper in keeping with the provisions or purposes of this
1699 chapter.

1700 (2) No person for the purpose of sale shall manufacture,
1701 distill, brew, sell, possess, export, transport, distribute,
1702 warehouse, store, solicit, take orders for, bottle, rectify,
1703 blend, treat, mix or process any alcoholic beverage except in



1704 accordance with authority granted under this chapter, or as
1705 otherwise provided by law for native wines or native spirits.

1706 (3) No alcoholic beverage intended for sale or resale shall
1707 be imported, shipped or brought into this state for delivery to
1708 any person other than as provided in this chapter, or as otherwise
1709 provided by law for native wines or native spirits.

1710 (4) The department may promulgate rules and regulations
1711 which authorize on-premises retailers to purchase limited amounts
1712 of alcoholic beverages from package retailers and for package
1713 retailers to purchase limited amounts of alcoholic beverages from
1714 other package retailers. The department shall develop and provide
1715 forms to be completed by the on-premises retailers and the package
1716 retailers verifying the transaction. The completed forms shall be
1717 forwarded to the department within a period of time prescribed by
1718 the department.

1719 (5) The department may promulgate rules which authorize the
1720 holder of a package retailer's permit to permit individual retail
1721 purchasers of packages of alcoholic beverages to return, for
1722 exchange, credit or refund, limited amounts of original sealed and
1723 unopened packages of alcoholic beverages purchased by the
1724 individual from the package retailer.

1725 (6) The department shall maintain all forms to be completed
1726 by applicants necessary for licensure by the department at all
1727 district offices of the department.



1728 (7) The department may promulgate rules which authorize the
1729 manufacturer of an alcoholic beverage or wine to import, transport
1730 and furnish or give a sample of alcoholic beverages or wines to
1731 the holders of package retailer's permits, on-premises retailer's
1732 permits, native wine or native spirit retailer's permits and
1733 temporary retailer's permits who have not previously purchased the
1734 brand of that manufacturer from the department or its warehouse
1735 operator. For each holder of the designated permits, the
1736 manufacturer may furnish not more than five hundred (500)
1737 milliliters of any brand of alcoholic beverage and not more than
1738 three (3) liters of any brand of wine.

1739 (8) The department may promulgate rules disallowing open
1740 product sampling of alcoholic beverages or wines by the holders of
1741 package retailer's permits and permitting open product sampling of
1742 alcoholic beverages by the holders of on-premises retailer's
1743 permits. Permitted sample products shall be plainly identified
1744 "sample" and the actual sampling must occur in the presence of the
1745 manufacturer's representatives during the legal operating hours of
1746 on-premises retailers.

1747 (9) The department may promulgate rules and regulations that
1748 authorize the holder of a research permit to import and purchase
1749 limited amounts of alcoholic beverages from importers, wineries
1750 and distillers of alcoholic beverages or from the department or
1751 its warehouse operator. The department shall develop and provide
1752 forms to be completed by the research permittee verifying each



1753 transaction. The completed forms shall be forwarded to the
1754 department within a period of time prescribed by the department.
1755 The records and inventory of alcoholic beverages shall be open to
1756 inspection at any time by the Director of the Alcoholic Beverage
1757 Control Division or any duly authorized agent.

1758 (10) The department may promulgate rules facilitating a
1759 retailer's on-site pickup of alcoholic beverages sold by the
1760 department or its warehouse operator, or as authorized by the
1761 department, including, but not limited to, native wines and native
1762 spirits, so that those alcoholic beverages may be delivered to the
1763 retailer at the manufacturer's location instead of via shipment
1764 from the department's warehouse.

1765 (11) **[Through June 30, 2023]** This section shall not apply
1766 to alcoholic beverages authorized to be sold by the holder of a
1767 distillery retailer's permit or a festival wine permit.

1768 (11) **[From and after July 1, 2023]** This section shall not
1769 apply to alcoholic beverages authorized to be sold by the holder
1770 of a distillery retailer's permit.

1771 (12) (a) An individual resident of this state who is at
1772 least twenty-one (21) years of age may purchase wine from a winery
1773 and have the purchase shipped into this state so long as it is
1774 shipped to a package retailer permittee in Mississippi; however,
1775 the permittee shall pay to the department all taxes, fees and
1776 surcharges on the wine that are imposed upon the sale of wine
1777 shipped by the department or its warehouse operator. No credit



1778 shall be provided to the permittee for any taxes paid to another
1779 state as a result of the transaction. Package retailers may
1780 charge a service fee for receiving and handling shipments from
1781 wineries on behalf of the purchasers. The department shall
1782 develop and provide forms to be completed by the package retailer
1783 permittees verifying the transaction. The completed forms shall
1784 be forwarded to the department within a period of time prescribed
1785 by the department.

1786 (b) The purchaser of wine that is to be shipped to a
1787 package retailer's store shall be required to get the prior
1788 approval of the package retailer before any wine is shipped to the
1789 package retailer. A purchaser is limited to no more than ten (10)
1790 cases of wine per year to be shipped to a package retailer. A
1791 package retailer shall notify a purchaser of wine within two (2)
1792 days after receiving the shipment of wine. If the purchaser of
1793 the wine does not pick up or take the wine from the package
1794 retailer within thirty (30) days after being notified by the
1795 package retailer, the package retailer may sell the wine as part
1796 of his inventory.

1797 (c) Shipments of wine into this state under this
1798 section shall be made by a duly licensed carrier. It shall be the
1799 duty of every common or contract carrier, and of every firm or
1800 corporation that shall bring, carry or transport wine from outside
1801 the state for delivery inside the state to package retailer
1802 permittees on behalf of consumers, to prepare and file with the



1803 department, on a schedule as determined by the department, of
1804 known wine shipments containing the name of the common or contract
1805 carrier, firm or corporation making the report, the period of time
1806 covered by said report, the name and permit number of the winery,
1807 the name and permit number of the package retailer permittee
1808 receiving such wine, the weight of the package delivered to each
1809 package retailer permittee, a unique tracking number, and the date
1810 of delivery. Reports received by the department shall be made
1811 available by the department to the public via the Mississippi
1812 Public Records Act process in the same manner as other state
1813 alcohol filings.

1814 Upon the department's request, any records supporting the
1815 report shall be made available to the department within a
1816 reasonable time after the department makes a written request for
1817 such records. Any records containing information relating to such
1818 reports shall be kept and preserved for a period of two (2) years,
1819 unless their destruction sooner is authorized, in writing, by the
1820 department, and shall be open and available to inspection by the
1821 department upon the department's written request. Reports shall
1822 also be made available to any law enforcement or regulatory body
1823 in the state in which the railroad company, express company,
1824 common or contract carrier making the report resides or does
1825 business.

1826 Any common or contract carrier that willfully fails to make
1827 reports, as provided by this section or any of the rules and



1828 regulations of the department for the administration and
1829 enforcement of this section, is subject to a notification of
1830 violation. In the case of a continuing failure to make reports,
1831 the common or contract carrier is subject to possible license
1832 suspension and revocation at the department's discretion.

1833 (d) A winery that ships wine under this section shall
1834 be deemed to have consented to the jurisdiction of the courts of
1835 this state, of the department, of any other state agency regarding
1836 the enforcement of this section, and of any related law, rules or
1837 regulations.

1838 (e) Any person who makes, participates in, transports,
1839 imports or receives a shipment in violation of this section is
1840 guilty of a misdemeanor and, upon conviction thereof, shall be
1841 punished by a fine of One Thousand Dollars (\$1,000.00) or
1842 imprisonment in the county jail for not more than six (6) months,
1843 or both. Each shipment shall constitute a separate offense.

1844 (13) If any provision of this chapter, or its application to
1845 any person or circumstance, is determined by a court to be invalid
1846 or unconstitutional, the remaining provisions shall be construed
1847 in accordance with the intent of the Legislature to further limit
1848 rather than expand commerce in alcoholic beverages to protect the
1849 health, safety, and welfare of the state's residents, and to
1850 enhance strict regulatory control over taxation, distribution and
1851 sale of alcoholic beverages through the three-tier regulatory
1852 system imposed by this chapter upon all alcoholic beverages to



1853 curb relationships and practices calculated to stimulate sales and
1854 impair the state's policy favoring trade stability and the
1855 promotion of temperance.

1856 **SECTION 23.** Section 67-1-43, Mississippi Code of 1972, is
1857 amended as follows:

1858 67-1-43. Any authorized retail distributor who shall
1859 purchase or receive * * * alcoholic beverages from any source
1860 except from the department or its warehouse operator, unless
1861 authorized by rules and regulations of the department promulgated
1862 under Section 67-1-41, shall be guilty of a misdemeanor and upon
1863 conviction thereof shall be punished by a fine of not less than
1864 Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars
1865 (\$2,000.00), to which may be added imprisonment in the county jail
1866 for not more than six (6) months. Any authorization of such
1867 person to sell intoxicating beverages may be revoked as provided
1868 by law.

1869 **SECTION 24.** Section 67-1-45, Mississippi Code of 1972, is
1870 amended as follows:

1871 67-1-45. No manufacturer, rectifier or distiller of
1872 alcoholic beverages shall sell or attempt to sell any such
1873 alcoholic beverages, except malt liquor, within the State of
1874 Mississippi, except to the department or its warehouse operator,
1875 or as provided in Section 67-1-41, or pursuant to Section 67-1-51.
1876 A producer of native wine or native spirit may sell native wines
1877 or native spirits, respectively, to the department or its



1878 warehouse operator, or to consumers at the location of the native
1879 winery or native distillery or its immediate vicinity.

1880 Any violation of this section by any manufacturer, rectifier
1881 or distiller shall be punished by a fine of not less than Five
1882 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
1883 (\$2,000.00), to which may be added imprisonment in the county jail
1884 not to exceed six (6) months.

1885 **SECTION 25.** Section 67-1-49, Mississippi Code of 1972, is
1886 amended as follows:

1887 67-1-49. All distillers or distributors having contracts
1888 with the * * * department or its warehouse operator for the sale
1889 of alcoholic beverages to * * * the department or its warehouse
1890 operator, shall, on or before February 1st of each year, file a
1891 statement, under oath, with the * * * department and with the
1892 Secretary of State, listing the names and addresses of each
1893 person, firm or corporation in Mississippi to whom or which said
1894 distiller or distributor shall have paid or agreed to pay any fee,
1895 retainer, salary, or remuneration, during the preceding year,
1896 together with a statement of the purpose for such payment.
1897 Failure to file such statement shall constitute grounds for
1898 the * * * department to suspend the right of the distiller or
1899 distributor to sell to * * * the department or its warehouse
1900 operator until such time as said statement shall be filed.

1901 **SECTION 26.** Section 67-1-51, Mississippi Code of 1972, is
1902 amended as follows:



1903 67-1-51. (1) Permits which may be issued by the department
1904 shall be as follows:

1905 (a) **Manufacturer's permit.** A manufacturer's permit
1906 shall permit the manufacture, importation in bulk, bottling and
1907 storage of alcoholic liquor and its distribution and sale to
1908 manufacturers holding permits under this chapter in this state and
1909 to persons outside the state who are authorized by law to purchase
1910 the same, and to sell as provided by this chapter.

1911 Manufacturer's permits shall be of the following classes:

1912 Class 1. Distiller's and/or rectifier's permit, which shall
1913 authorize the holder thereof to operate a distillery for the
1914 production of distilled spirits by distillation or redistillation
1915 and/or to operate a rectifying plant for the purifying, refining,
1916 mixing, blending, flavoring or reducing in proof of distilled
1917 spirits and alcohol.

1918 Class 2. Wine manufacturer's permit, which shall authorize
1919 the holder thereof to manufacture, import in bulk, bottle and
1920 store wine or vinous liquor.

1921 Class 3. Native wine producer's permit, which shall
1922 authorize the holder thereof to produce, bottle, store and sell
1923 native wines.

1924 Class 4. Native spirit producer's permit, which shall
1925 authorize the holder thereof to produce, bottle, store and sell
1926 native spirits.



1927 (b) **Package retailer's permit.** Except as otherwise
1928 provided in this paragraph and Section 67-1-52, a package
1929 retailer's permit shall authorize the holder thereof to operate a
1930 store exclusively for the sale at retail in original sealed and
1931 unopened packages of alcoholic beverages, including native wines
1932 and native spirits, not to be consumed on the premises where sold.
1933 Alcoholic beverages shall not be sold by any retailer in any
1934 package or container containing less than fifty (50) milliliters
1935 by liquid measure. A package retailer's permit, with prior
1936 approval from the department, shall authorize the holder thereof
1937 to sample new product furnished by a manufacturer's representative
1938 or his employees at the permitted place of business so long as the
1939 sampling otherwise complies with this chapter and applicable
1940 department regulations. Such samples may not be provided to
1941 customers at the permitted place of business. In addition to the
1942 sale at retail of packages of alcoholic beverages, the holder of a
1943 package retailer's permit is authorized to sell at retail
1944 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
1945 other beverages commonly used to mix with alcoholic beverages.
1946 Nonalcoholic beverages sold by the holder of a package retailer's
1947 permit shall not be consumed on the premises where sold.

1948 (c) **On-premises retailer's permit.** Except as otherwise
1949 provided in subsection (5) of this section, an on-premises
1950 retailer's permit shall authorize the sale of alcoholic beverages,
1951 including native wines and native spirits, for consumption on the



1952 licensed premises only; however, a patron of the permit holder may
1953 remove one (1) bottle of wine from the licensed premises if: (i)
1954 the patron consumed a portion of the bottle of wine in the course
1955 of consuming a meal purchased on the licensed premises; (ii) the
1956 permit holder securely reseals the bottle; (iii) the bottle is
1957 placed in a bag that is secured in a manner so that it will be
1958 visibly apparent if the bag is opened; and (iv) a dated receipt
1959 for the wine and the meal is available. Additionally, as part of
1960 a carryout order, a permit holder may sell one (1) bottle of wine
1961 to be removed from the licensed premises for every two (2) entrees
1962 ordered. Such a permit shall be issued only to qualified hotels,
1963 restaurants and clubs, small craft breweries, microbreweries, and
1964 to common carriers with adequate facilities for serving
1965 passengers. In resort areas, whether inside or outside of a
1966 municipality, the department, in its discretion, may issue
1967 on-premises retailer's permits to such establishments as it deems
1968 proper. An on-premises retailer's permit when issued to a common
1969 carrier shall authorize the sale and serving of alcoholic
1970 beverages aboard any licensed vehicle while moving through any
1971 county of the state; however, the sale of such alcoholic beverages
1972 shall not be permitted while such vehicle is stopped in a county
1973 that has not legalized such sales. If an on-premises retailer's
1974 permit is applied for by a common carrier operating solely in the
1975 water, such common carrier must, along with all other
1976 qualifications for a permit, (i) be certified to carry at least



1977 one hundred fifty (150) passengers and/or provide overnight
1978 accommodations for at least fifty (50) passengers and (ii) operate
1979 primarily in the waters within the State of Mississippi which lie
1980 adjacent to the State of Mississippi south of the three (3) most
1981 southern counties in the State of Mississippi and/or on the
1982 Mississippi River or navigable waters within any county bordering
1983 on the Mississippi River.

1984 (d) **Solicitor's permit.** A solicitor's permit shall
1985 authorize the holder thereof to act as salesman for a manufacturer
1986 or wholesaler holding a proper permit, to solicit on behalf of his
1987 employer orders for alcoholic beverages, and to otherwise promote
1988 his employer's products in a legitimate manner. Such a permit
1989 shall authorize the representation of and employment by one (1)
1990 principal only. However, the permittee may also, in the
1991 discretion of the department, be issued additional permits to
1992 represent other principals. No such permittee shall buy or sell
1993 alcoholic beverages for his own account, and no such beverage
1994 shall be brought into this state in pursuance of the exercise of
1995 such permit otherwise than through a permit issued to a wholesaler
1996 or manufacturer in the state.

1997 (e) **Native wine retailer's permit.** Except as otherwise
1998 provided in subsection (5) of this section, a native wine
1999 retailer's permit shall be issued only to a holder of a Class 3
2000 manufacturer's permit, and shall authorize the holder thereof to
2001 make retail sales of native wines to consumers for on-premises



2002 consumption or to consumers in originally sealed and unopened
2003 containers at an establishment located on the premises of or in
2004 the immediate vicinity of a native winery. When selling to
2005 consumers for on-premises consumption, a holder of a native wine
2006 retailer's permit may add to the native wine alcoholic beverages
2007 not produced on the premises, so long as the total volume of
2008 foreign beverage components does not exceed twenty percent (20%)
2009 of the mixed beverage. Hours of sale shall be the same as those
2010 authorized for on-premises permittees in the city or county in
2011 which the native wine retailer is located.

2012 (f) **Temporary retailer's permit.** Except as otherwise
2013 provided in subsection (5) of this section, a temporary retailer's
2014 permit shall permit the purchase and resale of alcoholic
2015 beverages, including native wines and native spirits, during legal
2016 hours on the premises described in the temporary permit only.

2017 Temporary retailer's permits shall be of the following
2018 classes:

2019 Class 1. A temporary one-day permit may be issued to bona
2020 fide nonprofit civic or charitable organizations authorizing the
2021 sale of alcoholic beverages, including native wine and native
2022 spirit, for consumption on the premises described in the temporary
2023 permit only. Class 1 permits may be issued only to applicants
2024 demonstrating to the department, by a statement signed under
2025 penalty of perjury submitted ten (10) days prior to the proposed
2026 date or such other time as the department may determine, that they



2027 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
2028 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
2029 Class 1 permittees shall obtain all alcoholic beverages from
2030 package retailers located in the county in which the temporary
2031 permit is issued. Alcoholic beverages remaining in stock upon
2032 expiration of the temporary permit may be returned by the
2033 permittee to the package retailer for a refund of the purchase
2034 price upon consent of the package retailer or may be kept by the
2035 permittee exclusively for personal use and consumption, subject to
2036 all laws pertaining to the illegal sale and possession of
2037 alcoholic beverages. The department, following review of the
2038 statement provided by the applicant and the requirements of the
2039 applicable statutes and regulations, may issue the permit.

2040 Class 2. A temporary permit, not to exceed seventy (70)
2041 days, may be issued to prospective permittees seeking to transfer
2042 a permit authorized in paragraph (c) of this subsection. A Class
2043 2 permit may be issued only to applicants demonstrating to the
2044 department, by a statement signed under the penalty of perjury,
2045 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
2046 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
2047 67-1-59. The department, following a preliminary review of the
2048 statement provided by the applicant and the requirements of the
2049 applicable statutes and regulations, may issue the permit.

2050 Class 2 temporary permittees must purchase their alcoholic
2051 beverages directly from the department or its warehouse operator



2052 or, with approval of the department, purchase the remaining stock
2053 of the previous permittee. If the proposed applicant of a Class 1
2054 or Class 2 temporary permit falsifies information contained in the
2055 application or statement, the applicant shall never again be
2056 eligible for a retail alcohol beverage permit and shall be subject
2057 to prosecution for perjury.

2058 Class 3. A temporary one-day permit may be issued to a
2059 retail establishment authorizing the complimentary distribution of
2060 wine, including native wine, to patrons of the retail
2061 establishment at an open house or promotional event, for
2062 consumption only on the premises described in the temporary
2063 permit. A Class 3 permit may be issued only to an applicant
2064 demonstrating to the department, by a statement signed under
2065 penalty of perjury submitted ten (10) days before the proposed
2066 date or such other time as the department may determine, that it
2067 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
2068 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
2069 A Class 3 permit holder shall obtain all alcoholic beverages from
2070 the holder(s) of a package retailer's permit located in the county
2071 in which the temporary permit is issued. Wine remaining in stock
2072 upon expiration of the temporary permit may be returned by the
2073 Class 3 temporary permit holder to the package retailer for a
2074 refund of the purchase price, with consent of the package
2075 retailer, or may be kept by the Class 3 temporary permit holder
2076 exclusively for personal use and consumption, subject to all laws



2077 pertaining to the illegal sale and possession of alcoholic
2078 beverages. The department, following review of the statement
2079 provided by the applicant and the requirements of the applicable
2080 statutes and regulations, may issue the permit. No retailer may
2081 receive more than twelve (12) Class 3 temporary permits in a
2082 calendar year. A Class 3 temporary permit shall not be issued to
2083 a retail establishment that either holds a merchant permit issued
2084 under paragraph (1) of this subsection, or holds a permit issued
2085 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
2086 the holder to engage in the business of a retailer of light wine
2087 or beer.

2088 (g) **Caterer's permit.** A caterer's permit shall permit
2089 the purchase of alcoholic beverages by a person engaging in
2090 business as a caterer and the resale of alcoholic beverages by
2091 such person in conjunction with such catering business. No person
2092 shall qualify as a caterer unless forty percent (40%) or more of
2093 the revenue derived from such catering business shall be from the
2094 serving of prepared food and not from the sale of alcoholic
2095 beverages and unless such person has obtained a permit for such
2096 business from the Department of Health. A caterer's permit shall
2097 not authorize the sale of alcoholic beverages on the premises of
2098 the person engaging in business as a caterer; however, the holder
2099 of an on-premises retailer's permit may hold a caterer's permit.
2100 When the holder of an on-premises retailer's permit or an
2101 affiliated entity of the holder also holds a caterer's permit, the



2102 caterer's permit shall not authorize the service of alcoholic
2103 beverages on a consistent, recurring basis at a separate, fixed
2104 location owned or operated by the caterer, on-premises retailer or
2105 affiliated entity and an on-premises retailer's permit shall be
2106 required for the separate location. All sales of alcoholic
2107 beverages by holders of a caterer's permit shall be made at the
2108 location being catered by the caterer, and, except as otherwise
2109 provided in subsection (5) of this section, such sales may be made
2110 only for consumption at the catered location. The location being
2111 catered may be anywhere within a county or judicial district that
2112 has voted to come out from under the dry laws or in which the sale
2113 and distribution of alcoholic beverages is otherwise authorized by
2114 law. Such sales shall be made pursuant to any other conditions
2115 and restrictions which apply to sales made by on-premises retail
2116 permittees. The holder of a caterer's permit or his employees
2117 shall remain at the catered location as long as alcoholic
2118 beverages are being sold pursuant to the permit issued under this
2119 paragraph (g), and the permittee shall have at the location the
2120 identification card issued by the Alcoholic Beverage Control
2121 Division of the department. No unsold alcoholic beverages may be
2122 left at the catered location by the permittee upon the conclusion
2123 of his business at that location. Appropriate law enforcement
2124 officers and Alcoholic Beverage Control Division personnel may
2125 enter a catered location on private property in order to enforce
2126 laws governing the sale or serving of alcoholic beverages.



2127 (h) **Research permit.** A research permit shall authorize
2128 the holder thereof to operate a research facility for the
2129 professional research of alcoholic beverages. Such permit shall
2130 authorize the holder of the permit to import and purchase limited
2131 amounts of alcoholic beverages from the department or from
2132 importers, wineries and distillers of alcoholic beverages for
2133 professional research.

2134 (i) **Alcohol processing permit.** An alcohol processing
2135 permit shall authorize the holder thereof to purchase, transport
2136 and possess alcoholic beverages for the exclusive use in cooking,
2137 processing or manufacturing products which contain alcoholic
2138 beverages as an integral ingredient. An alcohol processing permit
2139 shall not authorize the sale of alcoholic beverages on the
2140 premises of the person engaging in the business of cooking,
2141 processing or manufacturing products which contain alcoholic
2142 beverages. The amounts of alcoholic beverages allowed under an
2143 alcohol processing permit shall be set by the department.

2144 (j) **Hospitality cart permit.** A hospitality cart permit
2145 shall authorize the sale of alcoholic beverages from a mobile cart
2146 on a golf course that is the holder of an on-premises retailer's
2147 permit. The alcoholic beverages sold from the cart must be
2148 consumed within the boundaries of the golf course.

2149 (k) **Special service permit.** A special service permit
2150 shall authorize the holder to sell commercially sealed alcoholic
2151 beverages to the operator of a commercial or private aircraft for



2152 en route consumption only by passengers. A special service permit
2153 shall be issued only to a fixed-base operator who contracts with
2154 an airport facility to provide fueling and other associated
2155 services to commercial and private aircraft.

2156 (1) **Merchant permit.** Except as otherwise provided in
2157 subsection (5) of this section, a merchant permit shall be issued
2158 only to the owner of a spa facility, an art studio or gallery, or
2159 a cooking school, and shall authorize the holder to serve
2160 complimentary by the glass wine only, including native wine, at
2161 the holder's spa facility, art studio or gallery, or cooking
2162 school. A merchant permit holder shall obtain all wine from the
2163 holder of a package retailer's permit.

2164 (m) **Temporary alcoholic beverages charitable auction**
2165 **permit.** A temporary permit, not to exceed five (5) days, may be
2166 issued to a qualifying charitable nonprofit organization that is
2167 exempt from taxation under Section 501(c)(3) or (4) of the
2168 Internal Revenue Code of 1986. The permit shall authorize the
2169 holder to sell alcoholic beverages for the limited purpose of
2170 raising funds for the organization during a live or silent auction
2171 that is conducted by the organization and that meets the following
2172 requirements: (i) the auction is conducted in an area of the
2173 state where the sale of alcoholic beverages is authorized; (ii) if
2174 the auction is conducted on the premises of an on-premises
2175 retailer's permit holder, then the alcoholic beverages to be
2176 auctioned must be stored separately from the alcoholic beverages



2177 sold, stored or served on the premises, must be removed from the
2178 premises immediately following the auction, and may not be
2179 consumed on the premises; (iii) the permit holder may not conduct
2180 more than two (2) auctions during a calendar year; (iv) the permit
2181 holder may not pay a commission or promotional fee to any person
2182 to arrange or conduct the auction.

2183 (n) **Event venue retailer's permit.** An event venue
2184 retailer's permit shall authorize the holder thereof to purchase
2185 and resell alcoholic beverages, including native wines and native
2186 spirits, for consumption on the premises during legal hours during
2187 events held on the licensed premises if food is being served at
2188 the event by a caterer who is not affiliated with or related to
2189 the permittee. The caterer must serve at least three (3) entrees.
2190 The permit may only be issued for venues that can accommodate two
2191 hundred (200) persons or more. The number of persons a venue may
2192 accommodate shall be determined by the local fire department and
2193 such determination shall be provided in writing and submitted
2194 along with all other documents required to be provided for an
2195 on-premises retailer's permit. The permittee must derive the
2196 majority of its revenue from event-related fees, including, but
2197 not limited to, admission fees or ticket sales for live
2198 entertainment in the building. "Event-related fees" do not
2199 include alcohol, beer or light wine sales or any fee which may be
2200 construed to cover the cost of alcohol, beer or light wine. This



2201 determination shall be made on a per event basis. An event may
2202 not last longer than two (2) consecutive days per week.

2203 (o) **Temporary theatre permit.** A temporary theatre
2204 permit, not to exceed five (5) days, may be issued to a charitable
2205 nonprofit organization that is exempt from taxation under Section
2206 501(c) (3) or (4) of the Internal Revenue Code and owns or operates
2207 a theatre facility that features plays and other theatrical
2208 performances and productions. Except as otherwise provided in
2209 subsection (5) of this section, the permit shall authorize the
2210 holder to sell alcoholic beverages, including native wines and
2211 native spirits, to patrons of the theatre during performances and
2212 productions at the theatre facility for consumption during such
2213 performances and productions on the premises of the facility
2214 described in the permit. A temporary theatre permit holder shall
2215 obtain all alcoholic beverages from package retailers located in
2216 the county in which the permit is issued. Alcoholic beverages
2217 remaining in stock upon expiration of the temporary theatre permit
2218 may be returned by the permittee to the package retailer for a
2219 refund of the purchase price upon consent of the package retailer
2220 or may be kept by the permittee exclusively for personal use and
2221 consumption, subject to all laws pertaining to the illegal sale
2222 and possession of alcoholic beverages.

2223 (p) **Charter ship operator's permit.** Subject to the
2224 provisions of this paragraph (p), a charter ship operator's permit
2225 shall authorize the holder thereof and its employees to serve,



2226 monitor, store and otherwise control the serving and availability
2227 of alcoholic beverages to customers of the permit holder during
2228 private charters under contract provided by the permit holder. A
2229 charter ship operator's permit shall authorize such action by the
2230 permit holder and its employees only as to alcoholic beverages
2231 brought onto the permit holder's ship by customers of the permit
2232 holder as part of such a private charter. All such alcoholic
2233 beverages must be removed from the charter ship at the conclusion
2234 of each private charter. A charter ship operator's permit shall
2235 not authorize the permit holder to sell, charge for or otherwise
2236 supply alcoholic beverages to customers, except as authorized in
2237 this paragraph (p). For the purposes of this paragraph (p),
2238 "charter ship operator" means a common carrier that (i) is
2239 certified to carry at least one hundred fifty (150) passengers
2240 and/or provide overnight accommodations for at least fifty (50)
2241 passengers, (ii) operates only in the waters within the State of
2242 Mississippi, which lie adjacent to the State of Mississippi south
2243 of the three (3) most southern counties in the State of
2244 Mississippi, and (iii) provides charters under contract for tours
2245 and trips in such waters.

2246 (q) **Distillery retailer's permit.** The holder of a
2247 Class 1 manufacturer's permit may obtain a distillery retailer's
2248 permit. A distillery retailer's permit shall authorize the holder
2249 thereof to sell at retail alcoholic beverages to consumers for
2250 on-premises consumption, or to consumers by the sealed and



2251 unopened bottle from a retail location at the distillery for
2252 off-premises consumption. The holder may only sell product
2253 manufactured by the manufacturer at the distillery described in
2254 the permit. However, when selling to consumers for on-premises
2255 consumption, a holder of a distillery retailer's permit may add
2256 other beverages, alcoholic or not, so long as the total volume of
2257 other beverage components containing alcohol does not exceed
2258 twenty percent (20%). Hours of sale shall be the same as those
2259 authorized for on-premises permittees in the city or county in
2260 which the distillery retailer is located.

2261 The holder shall not sell at retail more than ten percent
2262 (10%) of the alcoholic beverages produced annually at its
2263 distillery. The holder shall not make retail sales of more than
2264 two and twenty-five one-hundredths (2.25) liters, in the
2265 aggregate, of the alcoholic beverages produced at its distillery
2266 to any one (1) individual for consumption off the premises of the
2267 distillery within a twenty-four-hour period. The hours of sale
2268 shall be the same as those hours for package retailers under this
2269 chapter. The holder of a distillery retailer's permit is not
2270 required to purchase the alcoholic beverages authorized to be sold
2271 by this paragraph from the department's liquor distribution
2272 warehouse; however, if the holder does not purchase the alcoholic
2273 beverages from the department's liquor distribution warehouse, the
2274 holder shall pay to the department all taxes, fees and surcharges
2275 on the alcoholic beverages that are imposed upon the sale of



2276 alcoholic beverages shipped by the * * * department or its
2277 warehouse operator. In addition to alcoholic beverages, the
2278 holder of a distillery retailer's permit may sell at retail
2279 promotional products from the same retail location, including
2280 shirts, hats, glasses, and other promotional products customarily
2281 sold by alcoholic beverage manufacturers.

2282 (r) **Festival Wine Permit.** Any wine manufacturer or
2283 native wine producer permitted by Mississippi or any other state
2284 is eligible to obtain a Festival Wine Permit. This permit
2285 authorizes the entity to transport product manufactured by it to
2286 festivals held within the State of Mississippi and sell sealed,
2287 unopened bottles to festival participants. The holder of this
2288 permit may provide samples at no charge to participants.
2289 "Festival" means any event at which three (3) or more vendors are
2290 present at a location for the sale or distribution of goods. The
2291 holder of a Festival Wine Permit is not required to purchase the
2292 alcoholic beverages authorized to be sold by this paragraph from
2293 the department's liquor distribution warehouse. However, if the
2294 holder does not purchase the alcoholic beverages from the
2295 department's liquor distribution warehouse, the holder of this
2296 permit shall pay to the department all taxes, fees and surcharges
2297 on the alcoholic beverages sold at such festivals that are imposed
2298 upon the sale of alcoholic beverages shipped by the Alcoholic
2299 Beverage Control Division of the Department of Revenue.
2300 Additionally, the entity shall file all applicable reports and



2301 returns as prescribed by the department. This permit is issued
2302 per festival and provides authority to sell for two (2)
2303 consecutive days during the hours authorized for on-premises
2304 permittees' sales in that county or city. The holder of the
2305 permit shall be required to maintain all requirements set by Local
2306 Option Law for the service and sale of alcoholic beverages. This
2307 permit may be issued to entities participating in festivals at
2308 which a Class 1 temporary permit is in effect.

2309 This paragraph (r) shall stand repealed from and after July
2310 1, 2023.

2311 (s) **Charter vessel operator's permit.** Subject to the
2312 provisions of this paragraph (s), a charter vessel operator's
2313 permit shall authorize the holder thereof and its employees to
2314 sell and serve alcoholic beverages to passengers of the permit
2315 holder during public tours, historical tours, ecological tours and
2316 sunset cruises provided by the permit holder. The permit shall
2317 authorize the holder to only sell alcoholic beverages, including
2318 native wines, to passengers of the charter vessel operator during
2319 public tours, historical tours, ecological tours and sunset
2320 cruises provided by the permit holder aboard the charter vessel
2321 operator for consumption during such tours and cruises on the
2322 premises of the charter vessel operator described in the permit.
2323 For the purposes of this paragraph (s), "charter vessel operator"
2324 means a common carrier that (i) is certified to carry at least
2325 forty-nine (49) passengers, (ii) operates only in the waters



2326 within the State of Mississippi, which lie south of Interstate 10
2327 in the three (3) most southern counties in the State of
2328 Mississippi, and lie adjacent to the State of Mississippi south of
2329 the three (3) most southern counties in the State of Mississippi,
2330 extending not further than one (1) mile south of such counties,
2331 and (iii) provides vessel services for tours and cruises in such
2332 waters as provided in this paragraph (s).

2333 (t) **Native spirit retailer's permit.** Except as
2334 otherwise provided in subsection (5) of this section, a native
2335 spirit retailer's permit shall be issued only to a holder of a
2336 Class 4 manufacturer's permit, and shall authorize the holder
2337 thereof to make retail sales of native spirits to consumers for
2338 on-premises consumption or to consumers in originally sealed and
2339 unopened containers at an establishment located on the premises of
2340 or in the immediate vicinity of a native distillery. When selling
2341 to consumers for on-premises consumption, a holder of a native
2342 spirit retailer's permit may add to the native spirit alcoholic
2343 beverages not produced on the premises, so long as the total
2344 volume of foreign beverage components does not exceed twenty
2345 percent (20%) of the mixed beverage. Hours of sale shall be the
2346 same as those authorized for on-premises permittees in the city or
2347 county in which the native spirit retailer is located.

2348 (u) **Delivery service permit.** Any individual, limited
2349 liability company, corporation or partnership registered to do
2350 business in this state is eligible to obtain a delivery service



2351 permit. Subject to the provisions of Section 67-1-51.1, this
2352 permit authorizes the permittee, or its employee or an independent
2353 contractor acting on its behalf, to deliver alcoholic beverages,
2354 beer, light wine and light spirit product from a licensed retailer
2355 to a person in this state who is at least twenty-one (21) years of
2356 age for the individual's use and not for resale. This permit does
2357 not authorize the delivery of alcoholic beverages, beer, light
2358 wine or light spirit product to the premises of a location with a
2359 permit for the manufacture, distribution or retail sale of
2360 alcoholic beverages, beer, light wine or light spirit product.
2361 The holder of a package retailer's permit or an on-premises
2362 retailer's permit under Section 67-1-51 or of a beer, light wine
2363 and light spirit product permit under Section 67-3-19 is
2364 authorized to apply for a delivery service permit as a privilege
2365 separate from its existing retail permit.

2366 (2) Except as otherwise provided in subsection (4) of this
2367 section, retail permittees may hold more than one (1) retail
2368 permit, at the discretion of the department.

2369 (3) (a) Except as otherwise provided in this subsection, no
2370 authority shall be granted to any person to manufacture, sell or
2371 store for sale any intoxicating liquor as specified in this
2372 chapter within four hundred (400) feet of any church, school,
2373 kindergarten or funeral home. However, within an area zoned
2374 commercial or business, such minimum distance shall be not less
2375 than one hundred (100) feet.



2376 (b) A church or funeral home may waive the distance
2377 restrictions imposed in this subsection in favor of allowing
2378 issuance by the department of a permit, pursuant to subsection (1)
2379 of this section, to authorize activity relating to the
2380 manufacturing, sale or storage of alcoholic beverages which would
2381 otherwise be prohibited under the minimum distance criterion.
2382 Such waiver shall be in written form from the owner, the governing
2383 body, or the appropriate officer of the church or funeral home
2384 having the authority to execute such a waiver, and the waiver
2385 shall be filed with and verified by the department before becoming
2386 effective.

2387 (c) The distance restrictions imposed in this
2388 subsection shall not apply to the sale or storage of alcoholic
2389 beverages at a bed and breakfast inn listed in the National
2390 Register of Historic Places or to the sale or storage of alcoholic
2391 beverages in a historic district that is listed in the National
2392 Register of Historic Places, is a qualified resort area and is
2393 located in a municipality having a population greater than one
2394 hundred thousand (100,000) according to the latest federal
2395 decennial census.

2396 (d) The distance restrictions imposed in this
2397 subsection shall not apply to the sale or storage of alcoholic
2398 beverages at a qualified resort area as defined in Section
2399 67-1-5(o)(iii)32.



2400 (e) The distance restrictions imposed in this
2401 subsection shall not apply to the sale or storage of alcoholic
2402 beverages at a licensed premises in a building formerly owned by a
2403 municipality and formerly leased by the municipality to a
2404 municipal school district and used by the municipal school
2405 district as a district bus shop facility.

2406 (f) The distance restrictions imposed in this
2407 subsection shall not apply to the sale or storage of alcoholic
2408 beverages at a licensed premises in a building consisting of at
2409 least five thousand (5,000) square feet and located approximately
2410 six hundred (600) feet from the intersection of Mississippi
2411 Highway 15 and Mississippi Highway 4.

2412 (g) The distance restrictions imposed in this
2413 subsection shall not apply to the sale or storage of alcoholic
2414 beverages at a licensed premises in a building located at the
2415 southeast corner of Ward and Tate Streets in the City of
2416 Senatobia, Mississippi.

2417 (4) No person, either individually or as a member of a firm,
2418 partnership, limited liability company or association, or as a
2419 stockholder, officer or director in a corporation, shall own or
2420 control any interest in more than one (1) package retailer's
2421 permit, nor shall such person's spouse, if living in the same
2422 household of such person, any relative of such person, if living
2423 in the same household of such person, or any other person living



2424 in the same household with such person own any interest in any
2425 other package retailer's permit.

2426 (5) (a) In addition to any other authority granted under
2427 this section, the holder of a permit issued under subsection
2428 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
2429 sell or otherwise provide alcoholic beverages and/or wine to a
2430 patron of the permit holder in the manner authorized in the permit
2431 and the patron may remove an open glass, cup or other container of
2432 the alcoholic beverage and/or wine from the licensed premises and
2433 may possess and consume the alcoholic beverage or wine outside of
2434 the licensed premises if: (i) the licensed premises is located
2435 within a leisure and recreation district created under Section
2436 67-1-101 and (ii) the patron remains within the boundaries of the
2437 leisure and recreation district while in possession of the
2438 alcoholic beverage or wine.

2439 (b) Nothing in this subsection shall be construed to
2440 allow a person to bring any alcoholic beverages into a permitted
2441 premises except to the extent otherwise authorized by this
2442 chapter.

2443 **SECTION 27.** Section 67-5-5, Mississippi Code of 1972, is
2444 amended as follows:

2445 67-5-5. For purposes of this chapter, the following words
2446 and phrases shall have the definitions ascribed herein, unless the
2447 context otherwise requires:



2448 (a) "Native wine" shall mean any product, produced in
2449 Mississippi for sale, having an alcohol content not to exceed
2450 twenty-one percent (21%) by weight and made in accordance with
2451 revenue laws of the United States, which shall be obtained
2452 primarily from the alcoholic fermentation of the juice of ripe
2453 grapes, fruits, berries, honey or vegetables grown and produced in
2454 Mississippi; provided that bulk, concentrated or fortified wines
2455 used for blending may be produced without this state and used in
2456 producing native wines. The commission shall adopt and promulgate
2457 rules and regulations to permit a producer to import such bulk
2458 and/or fortified wines into this state for use in blending with
2459 native wines without payment of any excise tax that would
2460 otherwise accrue thereon. In order to be classified as "native
2461 wine" under the provisions of this chapter, at least fifty-one
2462 percent (51%) of the finished product by volume shall have been
2463 obtained from fermentation of grapes, fruits, berries, honey or
2464 vegetables grown and produced in Mississippi.

2465 (b) "Native winery" shall mean any place or
2466 establishment within this state where native wine is produced in
2467 whole or in part for sale.

2468 (c) "Produce" shall mean to do or to perform any act or
2469 thing in the process of making native wine.

2470 (d) "Person" shall mean one or more natural persons, or
2471 a corporation, partnership or association.



2472 (e) "Producer" shall mean any person who owns, operates
2473 or conducts a native winery, but it does not mean the employees of
2474 such persons.

2475 (f) "Consumer" shall mean any person who purchases
2476 native wine for the purpose of consuming it, giving it away, or
2477 distributing it in any way other than by sale, barter or exchange.

2478 (g) "Commission" or "department" shall mean the
2479 Mississippi * * * Department of Revenue.

2480 (h) "Division" shall mean the Alcoholic Beverage
2481 Control Division of the * * * department.

2482 **SECTION 28.** Section 67-5-11, Mississippi Code of 1972, is
2483 amended as follows:

2484 67-5-11. (1) Within the State of Mississippi, every native
2485 winery is authorized to make sales to the department or its
2486 warehouse operator, or to consumers at the location of the native
2487 winery or its immediate vicinity. Every native winery is
2488 authorized to make sales to any producer, manufacturer,
2489 wholesaler, retailer or consumer located outside of the State of
2490 Mississippi who are authorized by law to purchase the same.

2491 (2) With respect to native wines or distilled spirits sold
2492 by the department or its warehouse operator to retailers under
2493 Section 67-1-41, the native winery or distillery retailer may hold
2494 those wines or spirits for onsite pickup instead of shipping them
2495 to the department warehouse, at the option of the retailer and
2496 pursuant to any rules promulgated by the department.



2497 **SECTION 29.** Section 67-5-13, Mississippi Code of 1972, is
2498 amended as follows:

2499 67-5-13. (1) Upon every producer holding a permit for the
2500 production of native wine, there is levied and imposed for each
2501 location for the privilege of engaging and continuing in this
2502 state in the production of native wine an annual privilege license
2503 tax in an amount equal to Ten Dollars (\$10.00) for each ten
2504 thousand (10,000) gallons, or any part thereof, of native wine
2505 produced by the winery.

2506 (2) There is levied and assessed an excise tax upon each
2507 case of native wine sold by a producer to any source to be
2508 collected from the producer in the amount provided for in Section
2509 27-71-7. However, native wine produced in Mississippi for export
2510 and sale without this state and native wine produced in
2511 Mississippi and sold to the * * * department or its warehouse
2512 operator shall not be subject to the excise tax, nor shall the tax
2513 accrue or be collected on native wines dispensed, as free samples
2514 in quantities of not more than six (6) ounces, in the tasting room
2515 of a native winery.

2516 (3) The privilege tax imposed by subsection (1) of this
2517 section shall be collected in the same manner as presently
2518 provided by law for the collection of other alcoholic beverages.
2519 The excise tax imposed by subsection (2) of this section shall be
2520 reported monthly by the producer to the * * * department on all
2521 sales made in Mississippi to consumers at the location of the



2522 native winery or its immediate vicinity, along with a statement of
2523 gallonage produced during that month, and the producer shall remit
2524 the tax due and owing with each report. The producer shall also
2525 include in the report a statement of gallonage sold and exported
2526 for sale outside this state.

2527 (4) All taxes levied by and collected under this section
2528 shall be deposited in the General Fund.

2529 **SECTION 30.** Section 67-11-9, Mississippi Code of 1972, is
2530 amended as follows:

2531 67-11-9. (1) Within the State of Mississippi, every native
2532 distillery is authorized to make sales to the department or its
2533 warehouse operator, or to consumers at the location of the native
2534 distillery or its immediate vicinity. Every native distillery is
2535 authorized to make sales to any producer, manufacturer,
2536 wholesaler, retailer or consumer located outside of the State of
2537 Mississippi who is authorized by law to purchase the same.

2538 (2) With respect to native spirits sold by the department or
2539 its warehouse operator to retailers under Section 67-1-41, the
2540 native distillery may hold those spirits for onsite pickup instead
2541 of shipping them to the department warehouse, at the option of the
2542 retailer and pursuant to any rules promulgated by the department.

2543 **SECTION 31.** Section 67-11-11, Mississippi Code of 1972, is
2544 amended as follows:

2545 67-11-11. (1) Upon every producer holding a permit for the
2546 production of native spirits, there is levied and imposed for each



2547 location for the privilege of engaging and continuing in this
2548 state in the production of native spirits an annual privilege
2549 license tax in an amount equal to Ten Dollars (\$10.00) for each
2550 one thousand (1,000) gallons, or any part thereof, of native
2551 spirits produced by the distillery.

2552 (2) There is levied and assessed an excise tax upon each
2553 case of native spirit sold by a producer to any source to be
2554 collected from the producer in the amount provided for in Section
2555 27-71-7. However, native spirit produced in Mississippi for
2556 export and sale without this state and native spirit produced in
2557 Mississippi and sold to the department or its warehouse operator
2558 shall not be subject to the excise tax, nor shall the tax accrue
2559 or be collected on native spirits dispensed, as free samples in
2560 quantities of not more than two (2) ounces, in the tasting room of
2561 a native distillery.

2562 (3) The privilege tax imposed by subsection (1) of this
2563 section shall be collected in the same manner as presently
2564 provided by law for the collection of other alcoholic beverages.
2565 The excise tax imposed by subsection (2) of this section shall be
2566 reported monthly by the producer to the department on all sales
2567 made in Mississippi to consumers at the location of the native
2568 distillery in its immediate vicinity, along with a statement of
2569 gallonage produced during that month, and the producer shall remit
2570 the tax due and owing with each report. The producer shall also



2571 include in the report a statement of gallonage sold and exported
2572 for sale outside this state.

2573 (4) All taxes levied by and collected under this section
2574 shall be deposited in the State General Fund.

2575 **SECTION 32.** Sections 1 through 6 of this act shall be
2576 codified as a new article in Title 67, Chapter 1, Mississippi Code
2577 of 1972.

2578 **SECTION 33.** This act shall take effect and be in force from
2579 and after its passage.

