

Senate Amendments to House Bill No. 512

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

162 (4) The initial contract for operations shall be for a
163 period of not more than ten (10) years, with the option to renew

164 for additional periods of not more than ten (10) years at a time.
165 The contract shall provide that all employees needed for
166 operations shall be employees of the operator.

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

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

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

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

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

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

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

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

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

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

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

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

209 (d) The operator shall defend any suit or claim brought
210 against the state arising out of any act or omission in
211 operations, and shall hold the state harmless from such claim or
212 suit. The operator shall be solely responsible for the payment of
213 any legal or other costs relative to any such claim or suit. The
214 operator shall reimburse the state for any costs that it may incur

215 as a result of such claim or suit immediately upon being submitted
216 a statement therefor by the Attorney General.

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

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

223 **SECTION 4. Resumption of control by state upon contract**
224 **termination.** A plan shall be developed and certified by the
225 commissioner which demonstrates the method by which the state
226 would resume control of the warehouse upon termination of the
227 contract for operations. The plan shall be submitted for review
228 and comment to the Governor, the Lieutenant Governor, the Speaker
229 of the House, the Chairmen of the Senate Finance Committee and the
230 House Ways and Means Committee, and the Joint Legislative
231 Committee on Performance Evaluation and Expenditure Review.

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

238 (2) The contract compliance officer shall be responsible for
239 monitoring all aspects of the warehouse. The officer shall be
240 provided an on-site work area, shall be on site on a daily basis,

241 and shall have access to all areas of the warehouse and staff at
242 all times. The operator shall provide any and all data, reports
243 and other materials that the contract compliance officer
244 determines are necessary to carry out monitoring responsibilities
245 under this section.

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

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

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

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

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

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

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

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

289 (2) (a) Monies deposited into the ABC Warehouse
290 Construction Fund created in Section 6(1) of this act shall be
291 disbursed, in the discretion of the Department of Finance and

292 Administration, to assist the Department of Revenue in paying the
293 costs associated with land acquisition for, and the design,
294 construction, furnishing and equipping of, a new warehouse for its
295 Alcoholic Beverage Control Division.

296 (b) Amounts deposited into the ABC Warehouse
297 Construction Fund created in Section 6(1) of this act shall be
298 disbursed to pay the costs of the projects described in paragraph
299 (a) of this subsection. Promptly after the commission has
300 certified, by resolution duly adopted, that the projects described
301 in paragraph (a) of this subsection have been completed,
302 abandoned, or cannot be completed in a timely fashion, any amounts
303 remaining in such special fund shall be applied to pay debt
304 service on the bonds issued under this section, in accordance with
305 the proceedings authorizing the issuance of such bonds and as
306 directed by the commission.

307 (3) (a) The commission, at one time, or from time to time,
308 may declare by resolution the necessity for issuance of general
309 obligation bonds of the State of Mississippi to provide funds for
310 all costs incurred or to be incurred for the purposes described in
311 subsection (2) of this section. Upon the adoption of a resolution
312 by the Department of Finance and Administration, declaring the
313 necessity for the issuance of any part or all of the general
314 obligation bonds authorized by this subsection, the department
315 shall deliver a certified copy of its resolution or resolutions to
316 the commission. Upon receipt of such resolution, the commission,
317 in its discretion, may act as the issuing agent, prescribe the

318 form of the bonds, determine the appropriate method for sale of
319 the bonds, advertise for and accept bids or negotiate the sale of
320 the bonds, issue and sell the bonds so authorized to be sold, and
321 do any and all other things necessary and advisable in connection
322 with the issuance and sale of such bonds. The total amount of
323 bonds issued under this section shall not exceed Fifty-five
324 Million Dollars (\$55,000,000.00). No bonds shall be issued under
325 this section after July 1, 2026.

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

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

344 (5) The bonds authorized by this section shall be signed by
345 the chairman of the commission, or by his facsimile signature, and
346 the official seal of the commission shall be affixed thereto,
347 attested by the secretary of the commission. The interest
348 coupons, if any, to be attached to such bonds may be executed by
349 the facsimile signatures of such officers. Whenever any such
350 bonds have been signed by the officials designated to sign the
351 bonds who were in office at the time of such signing, but who may
352 have ceased to be such officers before the sale and delivery of
353 such bonds, or who may not have been in office on the date such
354 bonds may bear, the signatures of such officers upon such bonds
355 and coupons shall nevertheless be valid and sufficient for all
356 purposes and have the same effect as if the person so officially
357 signing such bonds had remained in office until their delivery to
358 the purchaser, or had been in office on the date such bonds may
359 bear. However, notwithstanding anything herein to the contrary,
360 such bonds may be issued as provided in the Registered Bond Act of
361 the State of Mississippi.

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

368 (7) The commission shall act as issuing agent for the bonds
369 authorized under this section, prescribe the form of the bonds,

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

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

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

394 (8) The bonds issued under the provisions of this section
395 are general obligations of the State of Mississippi, and for the

396 payment thereof the full faith and credit of the State of
397 Mississippi is irrevocably pledged. If the funds appropriated by
398 the Legislature are insufficient to pay the principal of and the
399 interest on such bonds as they become due, then the deficiency
400 shall be paid by the State Treasurer from any funds in the State
401 Treasury not otherwise appropriated. All such bonds shall contain
402 recitals on their faces substantially covering the provisions of
403 this subsection.

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

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

421 (11) The bonds authorized under the authority of this
422 section may be validated in the Chancery Court of the First
423 Judicial District of Hinds County, Mississippi, in the manner and
424 with the force and effect provided by Title 31, Chapter 13,
425 Mississippi Code of 1972, for the validation of county, municipal,
426 school district and other bonds. The notice to taxpayers required
427 by such statutes shall be published in a newspaper published or
428 having a general circulation in the City of Jackson, Mississippi.

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

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

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

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

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

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

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

468 27-71-11. (1) The * * * department shall from time to time
469 by resolution request the State Bond Commission to provide
470 sufficient funds required to maintain an adequate alcoholic

471 beverage inventory. Said funds shall be provided under the
472 provisions of Chapter 557, Laws of 1966.

473 (2) The * * * department or its warehouse operator shall add
474 to the cost of all alcoholic beverages a markup of twenty-seven
475 and one-half percent (27-1/2%), inclusive of the three percent
476 (3%) markup imposed by Section 27-71-7(2).

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

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

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

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

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

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

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

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

537 "Wholesale sales" shall apply to:

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

543 A sale of a service taxable under Section 27-65-23 for resale
544 in the regular line of business, when made to a regular dealer in
545 that service and when the dealer is licensed under Section
546 27-65-27 of this chapter if located in this state, or a charge for
547 custom processing rendered upon merchandise for resale or rental
548 by a dealer licensed under Section 27-65-27.

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

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

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

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

569 (2) A sale of tangible personal property (except sand
570 or gravel when sold by the producer thereof) or service which is
571 to become a component part of a structure or improvement erected,
572 constructed, repaired, or made only when the sale is made to a
573 contractor taxable under Section 27-65-21 of this chapter on the
574 contract in which the component materials are to be used; and only

575 when the contractor holds a material purchase certificate as
576 required by Section 27-65-21 of this chapter.

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

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

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

593 The substantiation of the wholesale sales must be by an
594 invoice clearly indicating the date, the name and address of the
595 vendor and vendee, the items sold and the price thereof. Such
596 proof of wholesale sales shall be filed in chronological order and
597 thus preserved for a period of three (3) years from the date of
598 sale. These records shall be subject to inspection by the
599 commissioner and his agents, at their discretion, for the

600 verification of returns filed by either the wholesaler or his
601 customers.

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

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

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

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

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

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

622 (a) To identify and define for all public offices of
623 the state and its subdivisions generally accepted accounting
624 principles or other accounting principles as promulgated by
625 nationally recognized professional organizations and to consult

626 with the State Fiscal Officer in the prescription and
627 implementation of accounting rules and regulations;

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

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

646 (d) To postaudit each year and, when deemed necessary,
647 preaudit and investigate the financial affairs of the departments,
648 institutions, boards, commissions, or other agencies of state
649 government, as part of the publication of a comprehensive annual
650 financial report for the State of Mississippi, or as deemed
651 necessary by the State Auditor. In complying with the

652 requirements of this paragraph, the department shall have the
653 authority to conduct all necessary audit procedures on an interim
654 and year-end basis;

655 (e) To postaudit and, when deemed necessary, preaudit
656 and investigate separately the financial affairs of (i) the
657 offices, boards and commissions of county governments and any
658 departments and institutions thereof and therein; (ii) public
659 school districts, departments of education and junior college
660 districts; and (iii) any other local offices or agencies which
661 share revenues derived from taxes or fees imposed by the State
662 Legislature or receive grants from revenues collected by
663 governmental divisions of the state; the cost of such audits,
664 investigations or other services to be paid as follows: Such part
665 shall be paid by the state from appropriations made by the
666 Legislature for the operation of the State Department of Audit as
667 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
668 for the services of each staff person engaged in performing the
669 audit or other service plus the actual cost of any independent
670 specialist firm contracted by the State Auditor to assist in the
671 performance of the audit, which sum shall be paid by the county,
672 district, department, institution or other agency audited out of
673 its general fund or any other available funds from which such
674 payment is not prohibited by law. Costs paid for independent
675 specialists or firms contracted by the State Auditor shall be paid
676 by the audited entity through the State Auditor to the specialist
677 or firm conducting the postaudit.

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

690 (f) To postaudit and, when deemed necessary, preaudit
691 and investigate the financial affairs of the levee boards;
692 agencies created by the Legislature or by executive order of the
693 Governor; profit or nonprofit business entities administering
694 programs financed by funds flowing through the State Treasury or
695 through any of the agencies of the state, or its subdivisions; and
696 all other public bodies supported by funds derived in part or
697 wholly from public funds, except municipalities which annually
698 submit an audit prepared by a qualified certified public
699 accountant using methods and procedures prescribed by the
700 department;

701 (g) To make written demand, when necessary, for the
702 recovery of any amounts representing public funds improperly
703 withheld, misappropriated and/or otherwise illegally expended by

704 an officer, employee or administrative body of any state, county
705 or other public office, and/or for the recovery of the value of
706 any public property disposed of in an unlawful manner by a public
707 officer, employee or administrative body, such demands to be made
708 (i) upon the person or persons liable for such amounts and upon
709 the surety on official bond thereof, and/or (ii) upon any
710 individual, partnership, corporation or association to whom the
711 illegal expenditure was made or with whom the unlawful disposition
712 of public property was made, if such individual, partnership,
713 corporation or association knew or had reason to know through the
714 exercising of reasonable diligence that the expenditure was
715 illegal or the disposition unlawful. Such demand shall be
716 premised on competent evidence, which shall include at least one
717 (1) of the following: (i) sworn statements, (ii) written
718 documentation, (iii) physical evidence, or (iv) reports and
719 findings of government or other law enforcement agencies. Other
720 provisions notwithstanding, a demand letter issued pursuant to
721 this paragraph shall remain confidential by the State Auditor
722 until the individual against whom the demand letter is being filed
723 has been served with a copy of such demand letter. If, however,
724 such individual cannot be notified within fifteen (15) days using
725 reasonable means and due diligence, such notification shall be
726 made to the individual's bonding company, if he or she is bonded.
727 Each such demand shall be paid into the proper treasury of the
728 state, county or other public body through the office of the
729 department in the amount demanded within thirty (30) days from the

730 date thereof, together with interest thereon in the sum of one
731 percent (1%) per month from the date such amount or amounts were
732 improperly withheld, misappropriated and/or otherwise illegally
733 expended. In the event, however, such person or persons or such
734 surety shall refuse, neglect or otherwise fail to pay the amount
735 demanded and the interest due thereon within the allotted thirty
736 (30) days, the State Auditor shall have the authority and it shall
737 be his duty to institute suit, and the Attorney General shall
738 prosecute the same in any court of the state to the end that there
739 shall be recovered the total of such amounts from the person or
740 persons and surety on official bond named therein; and the amounts
741 so recovered shall be paid into the proper treasury of the state,
742 county or other public body through the State Auditor. In any
743 case where written demand is issued to a surety on the official
744 bond of such person or persons and the surety refuses, neglects or
745 otherwise fails within one hundred twenty (120) days to either pay
746 the amount demanded and the interest due thereon or to give the
747 State Auditor a written response with specific reasons for
748 nonpayment, then the surety shall be subject to a civil penalty in
749 an amount of twelve percent (12%) of the bond, not to exceed Ten
750 Thousand Dollars (\$10,000.00), to be deposited into the State
751 General Fund;

752 (h) To investigate any alleged or suspected violation
753 of the laws of the state by any officer or employee of the state,
754 county or other public office in the purchase, sale or the use of
755 any supplies, services, equipment or other property belonging

756 thereto; and in such investigation to do any and all things
757 necessary to procure evidence sufficient either to prove or
758 disprove the existence of such alleged or suspected violations.
759 The * * * Division of Investigation of the State Department of
760 Audit may investigate, for the purpose of prosecution, any
761 suspected criminal violation of the provisions of this chapter.
762 For the purpose of administration and enforcement of this chapter,
763 the enforcement employees of the * * * Division of Investigation
764 of the State Department of Audit have the powers of a law
765 enforcement officer of this state, and shall be empowered to make
766 arrests and to serve and execute search warrants and other valid
767 legal process anywhere within the State of Mississippi. All
768 enforcement employees of the * * * Division of Investigation of
769 the State Department of Audit hired on or after July 1, 1993,
770 shall be required to complete the Law Enforcement Officers
771 Training Program and shall meet the standards of the program;
772 (i) To issue subpoenas, with the approval of, and
773 returnable to, a judge of a chancery or circuit court, in termtime
774 or in vacation, to examine the records, documents or other
775 evidence of persons, firms, corporations or any other entities
776 insofar as such records, documents or other evidence relate to
777 dealings with any state, county or other public entity. The
778 circuit or chancery judge must serve the county in which the
779 records, documents or other evidence is located; or where all or
780 part of the transaction or transactions occurred which are the
781 subject of the subpoena;

782 (j) In any instances in which the State Auditor is or
783 shall be authorized or required to examine or audit, whether
784 preaudit or postaudit, any books, ledgers, accounts or other
785 records of the affairs of any public hospital owned or owned and
786 operated by one or more political subdivisions or parts thereof or
787 any combination thereof, or any school district, including
788 activity funds thereof, it shall be sufficient compliance
789 therewith, in the discretion of the State Auditor, that such
790 examination or audit be made from the report of any audit or other
791 examination certified by a certified public accountant and
792 prepared by or under the supervision of such certified public
793 accountant. Such audits shall be made in accordance with
794 generally accepted standards of auditing, with the use of an audit
795 program prepared by the State Auditor, and final reports of such
796 audits shall conform to the format prescribed by the State
797 Auditor. All files, working papers, notes, correspondence and all
798 other data compiled during the course of the audit shall be
799 available, without cost, to the State Auditor for examination and
800 abstracting during the normal business hours of any business day.
801 The expense of such certified reports shall be borne by the
802 respective hospital, or any available school district funds other
803 than minimum program funds, subject to examination or audit. The
804 State Auditor shall not be bound by such certified reports and
805 may, in his or their discretion, conduct such examination or audit
806 from the books, ledgers, accounts or other records involved as may
807 be appropriate and authorized by law;

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

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

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

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

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

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

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

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

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

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

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

885 (b) Until June 30, 1987, the revenue derived from this
886 three percent (3%) markup shall be deposited by the division in
887 the State Treasury to the credit of the "Alcoholism Treatment and
888 Rehabilitation Fund," a special fund which is hereby created in
889 the State Treasury, and shall be used by the Division of Alcohol
890 and Drug Abuse of the State Department of Mental Health and public
891 or private centers or organizations solely for funding of
892 treatment and rehabilitation programs for alcoholics and alcohol
893 abusers which are sponsored by the division or public or private
894 centers or organizations in such amounts as the Legislature may
895 appropriate to the division for use by the division or public or
896 private centers or organizations for such programs. Any tax
897 revenue in the fund which is not encumbered at the end of the
898 fiscal year shall lapse to the General Fund. It is the intent of
899 the Legislature that the State Department of Mental Health shall
900 continue to seek funds from other sources and shall use the funds
901 appropriated for the purposes of this section and Section 27-71-29
902 to match all federal funds which may be available for alcoholism
903 treatment and rehabilitation.

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

911 encumbered at the end of Fiscal Year 1987 shall be deposited to
912 the credit of the "Mental Health Programs Fund."

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

915 27-71-9. The * * * department may promulgate regulations
916 authorizing persons holding on-premises retailer's permits for
917 common carriers, as provided herein, to file periodic reports and
918 pay a tax based upon the value of alcoholic beverages sold while
919 in this state, in lieu of purchasing all such alcoholic beverages
920 from the * * * department or its warehouse operator. Such tax
921 shall not be less than an amount equivalent to the gross profit
922 plus all taxes that would have been derived from the sale of a
923 like quantity of alcoholic beverages by the * * * department or
924 its warehouse operator.

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

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

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

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

936 In all instances involving purchases, other than directly
937 from the manufacturer, the * * * department or its warehouse
938 operator shall maintain full and complete records clearly
939 reflecting the justification for such purchases. Said records
940 shall include invoices, price lists, comparative prices, bills of
941 lading and a certificate of justification signed by the director
942 of the * * * division or the appropriate authority of the
943 department's warehouse operator, as to the conditions requiring
944 the purchase or purchases. All such records shall be retained for
945 a period of three (3) years.

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

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

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

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

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

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

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

981 (a) "Alcoholic beverage" means any alcoholic liquid,
982 including wines of more than five percent (5%) of alcohol by
983 weight, capable of being consumed as a beverage by a human being,
984 but shall not include light wine, light spirit product and beer,
985 as defined in Section 67-3-3, Mississippi Code of 1972, but shall
986 include native wines and native spirits. The words "alcoholic

987 beverage" shall not include ethyl alcohol manufactured or
988 distilled solely for fuel purposes or beer of an alcoholic content
989 of more than eight percent (8%) by weight if the beer is legally
990 manufactured in this state for sale in another state.

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

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

999 (d) "Wine" or "vinous liquor" means any product
1000 obtained from the alcoholic fermentation of the juice of sound,
1001 ripe grapes, fruits, honey or berries and made in accordance with
1002 the revenue laws of the United States.

1003 (e) "Person" means and includes any individual,
1004 partnership, corporation, association or other legal entity
1005 whatsoever.

1006 (f) "Manufacturer" means any person engaged in
1007 manufacturing, distilling, rectifying, blending or bottling any
1008 alcoholic beverage.

1009 (g) "Wholesaler" means any person, other than a
1010 manufacturer, engaged in distributing or selling any alcoholic
1011 beverage at wholesale for delivery within or without this state
1012 when such sale is for the purpose of resale by the purchaser.

1013 (h) "Retailer" means any person who sells, distributes,
1014 or offers for sale or distribution, any alcoholic beverage for use
1015 or consumption by the purchaser and not for resale.

1016 (i) "State Tax Commission," "commission" or
1017 "department" means the Department of Revenue of the State of
1018 Mississippi, which shall create a division in its organization to
1019 be known as the Alcoholic Beverage Control Division. Any
1020 reference to the commission or the department hereafter means the
1021 powers and duties of the Department of Revenue with reference to
1022 supervision of the Alcoholic Beverage Control Division.

1023 (j) "Division" means the Alcoholic Beverage Control
1024 Division of the Department of Revenue.

1025 (k) "Municipality" means any incorporated city or town
1026 of this state.

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

1039 customers each day. When used in this chapter, the word "hotel"
1040 shall also be construed to include any establishment that meets
1041 the definition of "bed and breakfast inn" as provided in this
1042 section.

1043 (m) "Restaurant" means:

1044 (i) A place which is regularly and in a bona fide
1045 manner used and kept open for the serving of meals to guests for
1046 compensation, which has suitable seating facilities for guests,
1047 and which has suitable kitchen facilities connected therewith for
1048 cooking an assortment of foods and meals commonly ordered at
1049 various hours of the day; the service of such food as sandwiches
1050 and salads only shall not be deemed in compliance with this
1051 requirement. Except as otherwise provided in this paragraph, no
1052 place shall qualify as a restaurant under this chapter unless
1053 twenty-five percent (25%) or more of the revenue derived from such
1054 place shall be from the preparation, cooking and serving of meals
1055 and not from the sale of beverages, or unless the value of food
1056 given to and consumed by customers is equal to twenty-five percent
1057 (25%) or more of total revenue; or

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

1065 stands, but also any other portion of the building necessary for
1066 the operation of the business, including any kitchen area, bar
1067 area, storage area and office space, but excluding any area for
1068 parking. In addition to the other requirements of this
1069 subparagraph, the business must also serve food to guests for
1070 compensation within the building and derive the majority of its
1071 revenue from event-related fees, including, but not limited to,
1072 admission fees or ticket sales to live entertainment in the
1073 building, and from the rental of all or part of the facilities of
1074 the business in the building to another party for a specific event
1075 or function.

1076 (n) "Club" means an association or a corporation:

1077 (i) Organized or created under the laws of this
1078 state for a period of five (5) years prior to July 1, 1966;

1079 (ii) Organized not primarily for pecuniary profit
1080 but for the promotion of some common object other than the sale or
1081 consumption of alcoholic beverages;

1082 (iii) Maintained by its members through the
1083 payment of annual dues;

1084 (iv) Owning, hiring or leasing a building or space
1085 in a building of such extent and character as may be suitable and
1086 adequate for the reasonable and comfortable use and accommodation
1087 of its members and their guests;

1088 (v) The affairs and management of which are
1089 conducted by a board of directors, board of governors, executive

1090 committee, or similar governing body chosen by the members at a
1091 regular meeting held at some periodic interval; and

1092 (vi) No member, officer, agent or employee of
1093 which is paid, or directly or indirectly receives, in the form of
1094 a salary or other compensation any profit from the distribution or
1095 sale of alcoholic beverages to the club or to members or guests of
1096 the club beyond such salary or compensation as may be fixed and
1097 voted at a proper meeting by the board of directors or other
1098 governing body out of the general revenues of the club.

1099 The department may, in its discretion, waive the five-year
1100 provision of this paragraph. In order to qualify under this
1101 paragraph, a club must file with the department, at the time of
1102 its application for a license under this chapter, two (2) copies
1103 of a list of the names and residences of its members and similarly
1104 file, within ten (10) days after the election of any additional
1105 member, his name and address. Each club applying for a license
1106 shall also file with the department at the time of the application
1107 a copy of its articles of association, charter of incorporation,
1108 bylaws or other instruments governing the business and affairs
1109 thereof.

1110 (o) "Qualified resort area" means any area or locality
1111 outside of the limits of incorporated municipalities in this state
1112 commonly known and accepted as a place which regularly and
1113 customarily attracts tourists, vacationists and other transients
1114 because of its historical, scenic or recreational facilities or
1115 attractions, or because of other attributes which regularly and

1116 customarily appeal to and attract tourists, vacationists and other
1117 transients in substantial numbers; however, no area or locality
1118 shall so qualify as a resort area until it has been duly and
1119 properly approved as such by the department. The department may
1120 not approve an area as a qualified resort area after July 1, 2018,
1121 if any portion of such proposed area is located within two (2)
1122 miles of a convent or monastery that is located in a county
1123 traversed by Interstate 55 and U.S. Highway 98. A convent or
1124 monastery may waive such distance restrictions in favor of
1125 allowing approval by the department of an area as a qualified
1126 resort area. Such waiver shall be in written form from the owner,
1127 the governing body, or the appropriate officer of the convent or
1128 monastery having the authority to execute such a waiver, and the
1129 waiver shall be filed with and verified by the department before
1130 becoming effective.

1131 (i) The department may approve an area or locality
1132 outside of the limits of an incorporated municipality that is in
1133 the process of being developed as a qualified resort area if such
1134 area or locality, when developed, can reasonably be expected to
1135 meet the requisites of the definition of the term "qualified
1136 resort area." In such a case, the status of qualified resort area
1137 shall not take effect until completion of the development.

1138 (ii) The term includes any state park which is
1139 declared a resort area by the department; however, such
1140 declaration may only be initiated in a written request for resort
1141 area status made to the department by the Executive Director of

1142 the Department of Wildlife, Fisheries and Parks, and no permit for
1143 the sale of any alcoholic beverage, as defined in this chapter,
1144 except an on-premises retailer's permit, shall be issued for a
1145 hotel, restaurant or bed and breakfast inn in such park.

1146 (iii) The term includes:

1147 1. The clubhouses associated with the state
1148 park golf courses at the Lefleur's Bluff State Park, the John Kyle
1149 State Park, the Percy Quin State Park and the Hugh White State
1150 Park;

1151 2. The clubhouse and associated golf course,
1152 tennis courts and related facilities and swimming pool and related
1153 facilities where the golf course, tennis courts and related
1154 facilities and swimming pool and related facilities are adjacent
1155 to one or more planned residential developments and the golf
1156 course and all such developments collectively include at least
1157 seven hundred fifty (750) acres and at least four hundred (400)
1158 residential units;

1159 3. Any facility located on property that is a
1160 game reserve with restricted access that consists of at least
1161 three thousand (3,000) contiguous acres with no public roads and
1162 that offers as a service hunts for a fee to overnight guests of
1163 the facility;

1164 4. Any facility located on federal property
1165 surrounding a lake and designated as a recreational area by the
1166 United States Army Corps of Engineers that consists of at least
1167 one thousand five hundred (1,500) acres;

1168 5. Any facility that is located in a
1169 municipality that is bordered by the Pearl River, traversed by
1170 Mississippi Highway 25, adjacent to the boundaries of the Jackson
1171 International Airport and is located in a county which has voted
1172 against coming out from under the dry law; however, any such
1173 facility may only be located in areas designated by the governing
1174 authorities of such municipality;

1175 6. Any municipality with a population in
1176 excess of ten thousand (10,000) according to the latest federal
1177 decennial census that is located in a county that is bordered by
1178 the Pearl River and is not traversed by Interstate Highway 20,
1179 with a population in excess of forty-five thousand (45,000)
1180 according to the latest federal decennial census; however, the
1181 governing authorities of such a municipality may by ordinance:

1182 a. Specify the hours of operation of
1183 facilities that offer alcoholic beverages for sale;

1184 b. Specify the percentage of revenue
1185 that facilities that offer alcoholic beverages for sale must
1186 derive from the preparation, cooking and serving of meals and not
1187 from the sale of beverages;

1188 c. Designate the areas in which
1189 facilities that offer alcoholic beverages for sale may be located;

1190 7. The West Pearl Restaurant Tax District as
1191 defined in Chapter 912, Local and Private Laws of 2007;

1192 8. a. Land that is located in any county in
1193 which Mississippi Highway 43 and Mississippi Highway 25 intersect
1194 and:

1195 A. Owned by the Pearl River Valley
1196 Water Supply District, and/or

1197 B. Located within the Reservoir
1198 Community District, zoned commercial, east of Old Fannin Road,
1199 north of Regatta Drive, south of Spillway Road, west of Hugh Ward
1200 Boulevard and accessible by Old Fannin Road, Spillway Road, Spann
1201 Drive and/or Lake Vista Place, and/or

1202 C. Located within the Reservoir
1203 Community District, zoned commercial, west of Old Fannin Road,
1204 south of Spillway Road and extending to the boundary of the
1205 corporate limits of the City of Flowood, Mississippi;

1206 b. The board of supervisors of such
1207 county, with respect to B and C of item 8.a., may by resolution or
1208 other order:

1209 A. Specify the hours of operation
1210 of facilities that offer alcoholic beverages for sale,

1211 B. Specify the percentage of
1212 revenue that facilities that offer alcoholic beverages for sale
1213 must derive from the preparation, cooking and serving of meals and
1214 not from the sale of beverages, and

1215 C. Designate the areas in which
1216 facilities that offer alcoholic beverages for sale may be located;

1217 9. Any facility located on property that is a
1218 game reserve with restricted access that consists of at least
1219 eight hundred (800) contiguous acres with no public roads, that
1220 offers as a service hunts for a fee to overnight guests of the
1221 facility, and has accommodations for at least fifty (50) overnight
1222 guests;

1223 10. Any facility that:

1224 a. Consists of at least six thousand
1225 (6,000) square feet being heated and cooled along with an
1226 additional adjacent area that consists of at least two thousand
1227 two hundred (2,200) square feet regardless of whether heated and
1228 cooled,

1229 b. For a fee is used to host events such
1230 as weddings, reunions and conventions,

1231 c. Provides lodging accommodations
1232 regardless of whether part of the facility and/or located adjacent
1233 to or in close proximity to the facility, and

1234 d. Is located on property that consists
1235 of at least thirty (30) contiguous acres;

1236 11. Any facility and related property:

1237 a. Located on property that consists of
1238 at least one hundred twenty-five (125) contiguous acres and
1239 consisting of an eighteen (18) hole golf course, and/or located in
1240 a facility that consists of at least eight thousand (8,000) square
1241 feet being heated and cooled,

1242 b. Used for the purpose of providing
1243 meals and hosting events, and
1244 c. Used for the purpose of teaching
1245 culinary arts courses and/or turf management and grounds keeping
1246 courses, and/or outdoor recreation and leadership courses;
1247 12. Any facility and related property that:
1248 a. Consist of at least eight thousand
1249 (8,000) square feet being heated and cooled,
1250 b. For a fee is used to host events,
1251 c. Is used for the purpose of culinary
1252 arts courses, and/or live entertainment courses and art
1253 performances, and/or outdoor recreation and leadership courses;
1254 13. The clubhouse and associated golf course
1255 where the golf course is adjacent to one or more residential
1256 developments and the golf course and all such developments
1257 collectively include at least two hundred (200) acres and at least
1258 one hundred fifty (150) residential units and are located a. in a
1259 county that has voted against coming out from under the dry law;
1260 and b. outside of but in close proximity to a municipality in such
1261 county which has voted under Section 67-1-14, after January 1,
1262 2013, to come out from under the dry law;
1263 14. The clubhouse and associated eighteen
1264 (18) hole golf course located in a municipality traversed by
1265 Interstate Highway 55 and U.S. Highway 51 that has voted to come
1266 out from under the dry law;

1267 15. a. Land that is planned for mixed use
1268 development and consists of at least two hundred (200) contiguous
1269 acres with one or more planned residential developments
1270 collectively planned to include at least two hundred (200)
1271 residential units when completed, and also including a facility
1272 that consists of at least four thousand (4,000) square feet that
1273 is not part of such land but is located adjacent to or in close
1274 proximity thereto, and which land is located:

1275 A. In a county that has voted to
1276 come out from under the dry law,

1277 B. Outside the corporate limits of
1278 any municipality in such county and adjacent to or in close
1279 proximity to a golf course located in a municipality in such
1280 county, and

1281 C. Within one (1) mile of a state
1282 institution of higher learning;

1283 b. The board of supervisors of such
1284 county may by resolution or other order:

1285 A. Specify the hours of operation
1286 of facilities that offer alcoholic beverages for sale,

1287 B. Specify the percentage of
1288 revenue that facilities that offer alcoholic beverages for sale
1289 must derive from the preparation, cooking and serving of meals and
1290 not from the sale of beverages, and

1291 C. Designate the areas in which
1292 facilities that offer alcoholic beverages for sale may be located;

1293 16. Any facility with a capacity of five
1294 hundred (500) people or more, to be used as a venue for private
1295 events, on a tract of land in the Southwest Quarter of Section 33,
1296 Township 2 South, Range 7 East, of a county where U.S. Highway 45
1297 and U.S. Highway 72 intersect and that has not voted to come out
1298 from under the dry law;

1299 17. One hundred five (105) contiguous acres,
1300 more or less, located in Hinds County, Mississippi, and in the
1301 City of Jackson, Mississippi, whereon are constructed a variety of
1302 buildings, improvements, grounds or objects for the purpose of
1303 holding events thereon to promote agricultural and industrial
1304 development in Mississippi;

1305 18. Land that is owned by a state institution
1306 of higher learning and:

1307 a. Located entirely within a county that
1308 has elected by majority vote not to permit the transportation,
1309 storage, sale, distribution, receipt and/or manufacture of light
1310 wine and beer pursuant to Section 67-3-7, and

1311 b. Adjacent to but outside the
1312 incorporated limits of a municipality that has elected by majority
1313 vote to permit the sale, receipt, storage and transportation of
1314 light wine and beer pursuant to Section 67-3-9.

1315 If any portion of the land described in this item 18 has been
1316 declared a qualified resort area by the department before July 1,
1317 2020, then that qualified resort area shall be incorporated into
1318 the qualified resort area created by this item 18;

1319 19. Any facility and related property:
1320 a. Used as a flea market or similar
1321 venue during a weekend (Saturday and Sunday) immediately preceding
1322 the first Monday of a month and having an annual average of at
1323 least one thousand (1,000) visitors for each such weekend and five
1324 hundred (500) vendors for Saturday of each such weekend, and
1325 b. Located in a county that has not
1326 voted to come out from under the dry law and outside of but in
1327 close proximity to a municipality located in such county and which
1328 municipality has voted to come out from under the dry law;
1329 20. Blocks 1, 2 and 3 of the original town
1330 square in any municipality with a population in excess of one
1331 thousand five hundred (1,500) according to the latest federal
1332 decennial census and which is located in:
1333 a. A county traversed by Interstate 55
1334 and Interstate 20, and
1335 b. A judicial district that has not
1336 voted to come out from under the dry law;
1337 21. Any municipality with a population in
1338 excess of two thousand (2,000) according to the latest federal
1339 decennial census and in which is located a part of White's Creek
1340 Lake and in which U.S. Highway 82 intersects with Mississippi
1341 Highway 9 and located in a county that is partially bordered on
1342 one (1) side by the Big Black River; however, the governing
1343 authorities of such a municipality may by ordinance:

1344 a. Specify the hours of operation of
1345 facilities that offer alcoholic beverages for sale;
1346 b. Specify the percentage of revenue
1347 that facilities that offer alcoholic beverages for sale must
1348 derive from the preparation, cooking and serving of meals and not
1349 from the sale of beverages; and

1350 c. Designate the areas in which
1351 facilities that offer alcoholic beverages for sale may be located;

1352 22. A restaurant located on a two-acre tract
1353 adjacent to a five-hundred-fifty-acre lake in the northeast corner
1354 of a county traversed by U.S. Interstate 55 and U.S. Highway 84;

1355 23. Any tracts of land in Oktibbeha County,
1356 situated north of Bailey Howell Drive, Lee Boulevard and Old
1357 Mayhew Road, east of George Perry Street and south of Mississippi
1358 Highway 182, and not located on the property of a state
1359 institution of higher learning; however, the board of supervisors
1360 of such county may by resolution or other order:

1361 a. Specify the hours of operation of
1362 facilities that offer alcoholic beverages for sale;

1363 b. Specify the percentage of revenue
1364 that facilities that offer alcoholic beverages for sale must
1365 derive from the preparation, cooking and serving of meals and not
1366 from the sale of beverages; and

1367 c. Designate the areas in which
1368 facilities that offer alcoholic beverages for sale may be located;

1369 24. A municipality in which Mississippi
1370 Highway 27 and Mississippi Highway 28 intersect; however, the
1371 governing authorities of such a municipality may by ordinance:

1372 a. Specify the hours of operation of
1373 facilities offering alcoholic beverages for sale;

1374 b. Specify the percentage of revenue
1375 that facilities offering alcoholic beverages for sale must derive
1376 from the preparation, cooking and serving of meals and not from
1377 the sale of beverages; and

1378 c. Designate the areas in which
1379 facilities offering alcoholic beverages for sale may be located;

1380 25. A municipality through which run
1381 Mississippi Highway 35 and Interstate 20; however, the governing
1382 authorities of such a municipality may by ordinance:

1383 a. Specify the hours of operation of
1384 facilities that offer alcoholic beverages for sale;

1385 b. Specify the percentage of revenue
1386 that facilities that offer alcoholic beverages for sale must
1387 derive from the preparation, cooking and serving of meals and not
1388 from the sale of beverages; and

1389 c. Designate the areas in which
1390 facilities that offer alcoholic beverages for sale may be located;

1391 26. A municipality in which Mississippi
1392 Highway 16 and Mississippi Highway 35 intersect; however, the
1393 governing authorities of such a municipality may by ordinance:

1394 a. Specify the hours of operation of
1395 facilities that offer alcoholic beverages for sale;
1396 b. Specify the percentage of revenue
1397 that facilities that offer alcoholic beverages for sale must
1398 derive from the preparation, cooking and serving of meals and not
1399 from the sale of beverages; and

1400 c. Designate the areas in which
1401 facilities that offer alcoholic beverages for sale may be located;

1402 27. A municipality in which U.S. Highway 82
1403 and Old Highway 61 intersect; however, the governing authorities
1404 of such a municipality may by ordinance:

1405 a. Specify the hours of operation of
1406 facilities that offer alcoholic beverages for sale;

1407 b. Specify the percentage of revenue
1408 that facilities that offer alcoholic beverages for sale must
1409 derive from the preparation, cooking and serving of meals and not
1410 from the sale of beverages; and

1411 c. Designate the areas in which
1412 facilities that offer alcoholic beverages for sale may be located;

1413 28. A municipality in which Mississippi
1414 Highway 8 meets Mississippi Highway 1; however, the governing
1415 authorities of such a municipality may by ordinance:

1416 a. Specify the hours of operation of
1417 facilities that offer alcoholic beverages for sale;

1418 b. Specify the percentage of revenue
1419 that facilities that offer alcoholic beverages for sale must

1420 derive from the preparation, cooking and serving of meals and not
1421 from the sale of beverages; and

1422 c. Designate the areas in which
1423 facilities that offer alcoholic beverages for sale may be located;

1424 29. A municipality in which U.S. Highway 82
1425 and Mississippi Highway 1 intersect; however, the governing
1426 authorities of such a municipality may by ordinance:

1427 a. Specify the hours of operation of
1428 facilities that offer alcoholic beverages for sale;

1429 b. Specify the percentage of revenue
1430 that facilities that offer alcoholic beverages for sale must
1431 derive from the preparation, cooking and serving of meals and not
1432 from the sale of beverages; and

1433 c. Designate the areas in which
1434 facilities that offer alcoholic beverages for sale may be located;

1435 30. A municipality in which Mississippi
1436 Highway 50 meets Mississippi Highway 9; however, the governing
1437 authorities of such a municipality may by ordinance:

1438 a. Specify the hours of operation of
1439 facilities that offer alcoholic beverages for sale;

1440 b. Specify the percentage of revenue
1441 that facilities that offer alcoholic beverages for sale must
1442 derive from the preparation, cooking and serving of meals and not
1443 from the sale of beverages; and

1444 c. Designate the areas in which
1445 facilities that offer alcoholic beverages for sale may be located;

1446 31. An area bounded on the north by Pearl
1447 Street, on the east by West Street, on the south by Court Street
1448 and on the west by Farish Street, within a municipality bordered
1449 on the east by the Pearl River and through which run Interstate 20
1450 and Interstate 55; however, the governing authorities of the
1451 municipality in which such area is located may by ordinance:

1452 a. Specify the hours of operation of
1453 facilities that offer alcoholic beverages for sale;

1454 b. Specify the percentage of revenue
1455 that facilities that offer alcoholic beverages for sale must
1456 derive from the preparation, cooking and serving of meals and not
1457 from the sale of beverages; and

1458 c. Designate the areas in which
1459 facilities that offer alcoholic beverages for sale may be located;

1460 32. Any facility and related property that:

1461 a. Is contracted for mixed-use
1462 development improvements consisting of office and residential
1463 space and a restaurant and lounge, partially occupying the
1464 renovated space of a four-story commercial building which
1465 previously served as a financial institution; and adjacent
1466 property to the west consisting of a single-story office building
1467 that was originally occupied by the Brotherhood of Carpenters and
1468 Joiners of American Local Number 569; and

1469 b. Is situated on a tract of land
1470 consisting of approximately one and one-tenth (1.10) acres, and
1471 the adjacent property to the west consisting of approximately 0.5

1472 acres, located in a municipality which is the seat of county
1473 government, situated south of Interstate 10, traversed by U.S.
1474 Highway 90, partially bordered on one (1) side by the Pascagoula
1475 River and having its most southern boundary bordered by the Gulf
1476 of Mexico, with a population greater than twenty-two thousand
1477 (22,000) according to the 2010 federal decennial census; however,
1478 the governing authorities of such a municipality may by ordinance:

1479 A. Specify the hours of operation
1480 of facilities that offer alcoholic beverages for sale;

1481 B. Specify the percentage of
1482 revenue that facilities that offer alcoholic beverages for sale
1483 must derive from the preparation, cooking and serving of meals and
1484 not from the sale of beverages; and

1485 C. Designate the areas within the
1486 facilities in which alcoholic beverages may be offered for sale;

1487 33. Any facility with a maximum capacity of
1488 one hundred twenty (120) people that consists of at least three
1489 thousand (3,000) square feet being heated and cooled, has a
1490 commercial kitchen, has a pavilion that consists of at least nine
1491 thousand (9,000) square feet and is located on land more
1492 particularly described as follows:

1493 All that part of the East Half of the Northwest Quarter of Section
1494 21, Township 7 South, Range 4 East, Union County, Mississippi,
1495 that lies South of Mississippi State Highway 348 right-of-way and
1496 containing 19.48 acres, more or less.

1497 ALSO,

1498 The Northeast 38 acres of the Southwest Quarter of Section 21,
1499 Township 7 South, Range 4 East, Union County, Mississippi.

1500 ALSO,

1501 The South 81 1/2 acres of the Southwest Quarter of Section 21,
1502 Township 7 South, Range 4 East, Union County, Mississippi; and

1503 34. A municipality in which U.S. Highway 51
1504 and Mississippi Highway 16 intersect; however, the governing
1505 authorities of such a municipality may by ordinance:

1506 a. Specify the hours of operation of
1507 facilities that offer alcoholic beverages for sale;

1508 b. Specify the percentage of revenue
1509 that facilities that offer alcoholic beverages for sale must
1510 derive from the preparation, cooking and serving of meals and not
1511 from the sale of beverages; and

1512 c. Designate the areas in which
1513 facilities that offer alcoholic beverages for sale may be located.

1514 The status of these municipalities, districts, clubhouses,
1515 facilities, golf courses and areas described in subparagraph (iii)
1516 of this paragraph (o) as qualified resort areas does not require
1517 any declaration of same by the department.

1518 (p) "Native wine" means any product, produced in
1519 Mississippi for sale, having an alcohol content not to exceed
1520 twenty-one percent (21%) by weight and made in accordance with
1521 revenue laws of the United States, which shall be obtained
1522 primarily from the alcoholic fermentation of the juice of ripe
1523 grapes, fruits, berries, honey or vegetables grown and produced in

1524 Mississippi; provided that bulk, concentrated or fortified wines
1525 used for blending may be produced without this state and used in
1526 producing native wines. The department shall adopt and promulgate
1527 rules and regulations to permit a producer to import such bulk
1528 and/or fortified wines into this state for use in blending with
1529 native wines without payment of any excise tax that would
1530 otherwise accrue thereon.

1531 (q) "Native winery" means any place or establishment
1532 within the State of Mississippi where native wine is produced, in
1533 whole or in part, for sale.

1534 (r) "Bed and breakfast inn" means an establishment
1535 within a municipality where in consideration of payment, breakfast
1536 and lodging are habitually furnished to travelers and wherein are
1537 located not less than eight (8) and not more than nineteen (19)
1538 adequately furnished and completely separate sleeping rooms with
1539 adequate facilities, that persons usually apply for and receive as
1540 overnight accommodations; however, such restriction on the minimum
1541 number of sleeping rooms shall not apply to establishments on the
1542 National Register of Historic Places. No place shall qualify as a
1543 bed and breakfast inn under this chapter unless on the date of the
1544 initial application for a license under this chapter more than
1545 fifty percent (50%) of the sleeping rooms are located in a
1546 structure formerly used as a residence.

1547 (s) "Board" shall refer to the Board of Tax Appeals of
1548 the State of Mississippi.

1549 (t) "Spa facility" means an establishment within a
1550 municipality or qualified resort area and owned by a hotel where,
1551 in consideration of payment, patrons receive from licensed
1552 professionals a variety of private personal care treatments such
1553 as massages, facials, waxes, exfoliation and hairstyling.

1554 (u) "Art studio or gallery" means an establishment
1555 within a municipality or qualified resort area that is in the sole
1556 business of allowing patrons to view and/or purchase paintings and
1557 other creative artwork.

1558 (v) "Cooking school" means an establishment within a
1559 municipality or qualified resort area and owned by a nationally
1560 recognized company that offers an established culinary education
1561 curriculum and program where, in consideration of payment, patrons
1562 are given scheduled professional group instruction on culinary
1563 techniques. For purposes of this paragraph, the definition of
1564 cooking school shall not include schools or classes offered by
1565 grocery stores, convenience stores or drugstores.

1566 (w) "Campus" means property owned by a public school
1567 district, community or junior college, college or university in
1568 this state where educational courses are taught, school functions
1569 are held, tests and examinations are administered or academic
1570 course credits are awarded; however, the term shall not include
1571 any "restaurant" or "hotel" that is located on property owned by a
1572 community or junior college, college or university in this state,
1573 and is operated by a third party who receives all revenue
1574 generated from food and alcoholic beverage sales.

1575 (x) "Native spirit" shall mean any beverage, produced
1576 in Mississippi for sale, manufactured primarily by the
1577 distillation of fermented grain, starch, molasses or sugar
1578 produced in Mississippi, including dilutions and mixtures of these
1579 beverages. In order to be classified as "native spirit" under the
1580 provisions of this chapter, at least fifty-one percent (51%) of
1581 the finished product by volume shall have been obtained from
1582 distillation of fermented grain, starch, molasses or sugar grown
1583 and produced in Mississippi.

1584 (y) "Native distillery" shall mean any place or
1585 establishment within this state where native spirit is produced in
1586 whole or in part for sale.

1587 (z) "Warehouse operator" shall have the meaning
1588 ascribed in Section 1 of this act.

1589 **SECTION 19.** Section 67-1-9, Mississippi Code of 1972, is
1590 amended as follows:

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

1601 The department is hereby authorized to promulgate rules and
1602 regulations for the establishment of such private bonded
1603 warehouses and for the control of alcoholic beverages stored in
1604 such warehouses. Additionally, nothing herein contained shall
1605 prevent any duly licensed practicing physician or dentist from
1606 possessing or using alcoholic liquor in the strict practice of his
1607 profession, or prevent any hospital or other institution caring
1608 for sick and diseased persons, from possessing and using alcoholic
1609 liquor for the treatment of bona fide patients of such hospital or
1610 other institution. Any drugstore employing a licensed pharmacist
1611 may possess and use alcoholic liquors in the combination of
1612 prescriptions of duly licensed physicians. The possession and
1613 dispensation of wine by an authorized representative of any church
1614 for the purpose of conducting any bona fide rite or religious
1615 ceremony conducted by such church shall not be prohibited by this
1616 chapter.

1617 (2) Any person, upon conviction of any provision of this
1618 section, shall be punished as follows:

1619 (a) By a fine of not less than One Hundred Dollars
1620 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
1621 imprisonment in the county jail not less than one (1) week nor
1622 more than three (3) months, or both, for the first conviction
1623 under this section.

1624 (b) By a fine of not less than One Hundred Dollars
1625 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
1626 imprisonment in the county jail not less than sixty (60) days, nor

1627 more than six (6) months, or both fine and imprisonment, for the
1628 second conviction for violating this section.

1629 (c) By a fine of not less than One Hundred Dollars
1630 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
1631 imprisonment in the State Penitentiary not less than one (1) year,
1632 nor more than five (5) years, or both fine and imprisonment, for
1633 conviction the third time under this section for the violation
1634 thereof after having been twice convicted of its violation.

1635 (3) Nothing in this section shall make it unlawful to
1636 transport bottles or containers of alcoholic beverages that are
1637 legally purchased in this state if the bottles or containers are
1638 unopened and are being transported on state or federal highway.

1639 **SECTION 20.** Section 67-1-19, Mississippi Code of 1972, is
1640 amended as follows:

1641 67-1-19. Except as otherwise noted, the administration and
1642 enforcement of this chapter shall be vested in the Department of
1643 Revenue. There is hereby created the Alcoholic Beverage Control
1644 Division within and as a part of the Department of Revenue.

1645 **SECTION 21.** Section 67-1-33, Mississippi Code of 1972, is
1646 amended as follows:

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

1652 subject to the provisions of this chapter, or from any officer,
1653 agent or employee thereof.

1654 (2) No member of the Board of Tax Appeals, the Commissioner
1655 of Revenue of the Department of Revenue, or person appointed or
1656 employed by the department under this chapter, including its
1657 warehouse operator, shall solicit, request from or recommend,
1658 directly or indirectly, to any person subject to the provisions of
1659 this chapter, or to any officer, agent or employee thereof, the
1660 appointment of any person to any place or position.

1661 (3) Every person subject to the provisions of this chapter,
1662 and every officer, agent or employee thereof, is hereby forbidden
1663 to offer to any member of the Board of Tax Appeals, to the
1664 Commissioner of Revenue or to any person appointed or employed by
1665 the department under this chapter, including its warehouse
1666 operator, any gift, gratuity, emolument or employment.

1667 (4) If any member of the Board of Tax Appeals, the
1668 Commissioner of Revenue or any person appointed or employed by the
1669 department under this chapter, including its warehouse operator,
1670 shall violate any of the provisions of this section, he shall be
1671 removed from the office or employment held by him.

1672 (5) Every person violating the provisions of this section
1673 shall be guilty of a misdemeanor.

1674 (6) For purposes of this provision, the terms "gift,"
1675 "gratuity," "emolument" and "employment" do not include the
1676 payment of expenses associated with social occasions afforded

1677 public servants or any other benefit that does not come within the
1678 definition of "pecuniary benefit" as defined in Section 25-4-103.

1679 **SECTION 22.** Section 67-1-41, Mississippi Code of 1972, is
1680 amended as follows:

1681 67-1-41. (1) The department is hereby created a wholesale
1682 distributor and seller of alcoholic beverages, not including malt
1683 liquors, within the State of Mississippi. It is granted the right
1684 to import and sell alcoholic beverages at wholesale within the
1685 state, and no person who is granted the right to sell, distribute
1686 or receive alcoholic beverages at retail shall purchase any
1687 alcoholic beverages from any source other than the department or
1688 its warehouse operator, except as authorized in subsections (4),
1689 (9) and (12) of this section. The department may establish
1690 warehouses, and the department or its warehouse operator may
1691 purchase alcoholic beverages in such quantities and from such
1692 sources as it may deem desirable and sell the alcoholic beverages
1693 to authorized permittees within the state including, at the
1694 discretion of the department or its warehouse operator, any retail
1695 distributors operating within any military post or qualified
1696 resort areas within the boundaries of the state, keeping a correct
1697 and accurate record of all such transactions and exercising such
1698 control over the distribution of alcoholic beverages as seem right
1699 and proper in keeping with the provisions or purposes of this
1700 chapter.

1701 (2) No person for the purpose of sale shall manufacture,
1702 distill, brew, sell, possess, export, transport, distribute,

1703 warehouse, store, solicit, take orders for, bottle, rectify,
1704 blend, treat, mix or process any alcoholic beverage except in
1705 accordance with authority granted under this chapter, or as
1706 otherwise provided by law for native wines or native spirits.

1707 (3) No alcoholic beverage intended for sale or resale shall
1708 be imported, shipped or brought into this state for delivery to
1709 any person other than as provided in this chapter, or as otherwise
1710 provided by law for native wines or native spirits.

1711 (4) The department may promulgate rules and regulations
1712 which authorize on-premises retailers to purchase limited amounts
1713 of alcoholic beverages from package retailers and for package
1714 retailers to purchase limited amounts of alcoholic beverages from
1715 other package retailers. The department shall develop and provide
1716 forms to be completed by the on-premises retailers and the package
1717 retailers verifying the transaction. The completed forms shall be
1718 forwarded to the department within a period of time prescribed by
1719 the department.

1720 (5) The department may promulgate rules which authorize the
1721 holder of a package retailer's permit to permit individual retail
1722 purchasers of packages of alcoholic beverages to return, for
1723 exchange, credit or refund, limited amounts of original sealed and
1724 unopened packages of alcoholic beverages purchased by the
1725 individual from the package retailer.

1726 (6) The department shall maintain all forms to be completed
1727 by applicants necessary for licensure by the department at all
1728 district offices of the department.

1729 (7) The department may promulgate rules which authorize the
1730 manufacturer of an alcoholic beverage or wine to import, transport
1731 and furnish or give a sample of alcoholic beverages or wines to
1732 the holders of package retailer's permits, on-premises retailer's
1733 permits, native wine or native spirit retailer's permits and
1734 temporary retailer's permits who have not previously purchased the
1735 brand of that manufacturer from the department or its warehouse
1736 operator. For each holder of the designated permits, the
1737 manufacturer may furnish not more than five hundred (500)
1738 milliliters of any brand of alcoholic beverage and not more than
1739 three (3) liters of any brand of wine.

1740 (8) The department may promulgate rules disallowing open
1741 product sampling of alcoholic beverages or wines by the holders of
1742 package retailer's permits and permitting open product sampling of
1743 alcoholic beverages by the holders of on-premises retailer's
1744 permits. Permitted sample products shall be plainly identified
1745 "sample" and the actual sampling must occur in the presence of the
1746 manufacturer's representatives during the legal operating hours of
1747 on-premises retailers.

1748 (9) The department may promulgate rules and regulations that
1749 authorize the holder of a research permit to import and purchase
1750 limited amounts of alcoholic beverages from importers, wineries
1751 and distillers of alcoholic beverages or from the department or
1752 its warehouse operator. The department shall develop and provide
1753 forms to be completed by the research permittee verifying each
1754 transaction. The completed forms shall be forwarded to the

1755 department within a period of time prescribed by the department.
1756 The records and inventory of alcoholic beverages shall be open to
1757 inspection at any time by the Director of the Alcoholic Beverage
1758 Control Division or any duly authorized agent.

1759 (10) The department may promulgate rules facilitating a
1760 retailer's on-site pickup of alcoholic beverages sold by the
1761 department or its warehouse operator, or as authorized by the
1762 department, including, but not limited to, native wines and native
1763 spirits, so that those alcoholic beverages may be delivered to the
1764 retailer at the manufacturer's location instead of via shipment
1765 from the department's warehouse.

1766 (11) **[Through June 30, 2023]** This section shall not apply
1767 to alcoholic beverages authorized to be sold by the holder of a
1768 distillery retailer's permit or a festival wine permit.

1769 (11) **[From and after July 1, 2023]** This section shall not
1770 apply to alcoholic beverages authorized to be sold by the holder
1771 of a distillery retailer's permit.

1772 (12) (a) An individual resident of this state who is at
1773 least twenty-one (21) years of age may purchase wine from a winery
1774 and have the purchase shipped into this state so long as it is
1775 shipped to a package retailer permittee in Mississippi; however,
1776 the permittee shall pay to the department all taxes, fees and
1777 surcharges on the wine that are imposed upon the sale of wine
1778 shipped by the department or its warehouse operator. No credit
1779 shall be provided to the permittee for any taxes paid to another
1780 state as a result of the transaction. Package retailers may

1781 charge a service fee for receiving and handling shipments from
1782 wineries on behalf of the purchasers. The department shall
1783 develop and provide forms to be completed by the package retailer
1784 permittees verifying the transaction. The completed forms shall
1785 be forwarded to the department within a period of time prescribed
1786 by the department.

1787 (b) The purchaser of wine that is to be shipped to a
1788 package retailer's store shall be required to get the prior
1789 approval of the package retailer before any wine is shipped to the
1790 package retailer. A purchaser is limited to no more than ten (10)
1791 cases of wine per year to be shipped to a package retailer. A
1792 package retailer shall notify a purchaser of wine within two (2)
1793 days after receiving the shipment of wine. If the purchaser of
1794 the wine does not pick up or take the wine from the package
1795 retailer within thirty (30) days after being notified by the
1796 package retailer, the package retailer may sell the wine as part
1797 of his inventory.

1798 (c) Shipments of wine into this state under this
1799 section shall be made by a duly licensed carrier. It shall be the
1800 duty of every common or contract carrier, and of every firm or
1801 corporation that shall bring, carry or transport wine from outside
1802 the state for delivery inside the state to package retailer
1803 permittees on behalf of consumers, to prepare and file with the
1804 department, on a schedule as determined by the department, of
1805 known wine shipments containing the name of the common or contract
1806 carrier, firm or corporation making the report, the period of time

1807 covered by said report, the name and permit number of the winery,
1808 the name and permit number of the package retailer permittee
1809 receiving such wine, the weight of the package delivered to each
1810 package retailer permittee, a unique tracking number, and the date
1811 of delivery. Reports received by the department shall be made
1812 available by the department to the public via the Mississippi
1813 Public Records Act process in the same manner as other state
1814 alcohol filings.

1815 Upon the department's request, any records supporting the
1816 report shall be made available to the department within a
1817 reasonable time after the department makes a written request for
1818 such records. Any records containing information relating to such
1819 reports shall be kept and preserved for a period of two (2) years,
1820 unless their destruction sooner is authorized, in writing, by the
1821 department, and shall be open and available to inspection by the
1822 department upon the department's written request. Reports shall
1823 also be made available to any law enforcement or regulatory body
1824 in the state in which the railroad company, express company,
1825 common or contract carrier making the report resides or does
1826 business.

1827 Any common or contract carrier that willfully fails to make
1828 reports, as provided by this section or any of the rules and
1829 regulations of the department for the administration and
1830 enforcement of this section, is subject to a notification of
1831 violation. In the case of a continuing failure to make reports,

1832 the common or contract carrier is subject to possible license
1833 suspension and revocation at the department's discretion.

1834 (d) A winery that ships wine under this section shall
1835 be deemed to have consented to the jurisdiction of the courts of
1836 this state, of the department, of any other state agency regarding
1837 the enforcement of this section, and of any related law, rules or
1838 regulations.

1839 (e) Any person who makes, participates in, transports,
1840 imports or receives a shipment in violation of this section is
1841 guilty of a misdemeanor and, upon conviction thereof, shall be
1842 punished by a fine of One Thousand Dollars (\$1,000.00) or
1843 imprisonment in the county jail for not more than six (6) months,
1844 or both. Each shipment shall constitute a separate offense.

1845 (13) If any provision of this chapter, or its application to
1846 any person or circumstance, is determined by a court to be invalid
1847 or unconstitutional, the remaining provisions shall be construed
1848 in accordance with the intent of the Legislature to further limit
1849 rather than expand commerce in alcoholic beverages to protect the
1850 health, safety, and welfare of the state's residents, and to
1851 enhance strict regulatory control over taxation, distribution and
1852 sale of alcoholic beverages through the three-tier regulatory
1853 system imposed by this chapter upon all alcoholic beverages to
1854 curb relationships and practices calculated to stimulate sales and
1855 impair the state's policy favoring trade stability and the
1856 promotion of temperance.

1857 **SECTION 23.** Section 67-1-43, Mississippi Code of 1972, is
1858 amended as follows:

1859 67-1-43. Any authorized retail distributor who shall
1860 purchase or receive * * * alcoholic beverages from any source
1861 except from the department or its warehouse operator, unless
1862 authorized by rules and regulations of the department promulgated
1863 under Section 67-1-41, shall be guilty of a misdemeanor and upon
1864 conviction thereof shall be punished by a fine of not less than
1865 Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars
1866 (\$2,000.00), to which may be added imprisonment in the county jail
1867 for not more than six (6) months. Any authorization of such
1868 person to sell intoxicating beverages may be revoked as provided
1869 by law.

1870 **SECTION 24.** Section 67-1-45, Mississippi Code of 1972, is
1871 amended as follows:

1872 67-1-45. No manufacturer, rectifier or distiller of
1873 alcoholic beverages shall sell or attempt to sell any such
1874 alcoholic beverages, except malt liquor, within the State of
1875 Mississippi, except to the department or its warehouse operator,
1876 or as provided in Section 67-1-41, or pursuant to Section 67-1-51.
1877 A producer of native wine or native spirit may sell native wines
1878 or native spirits, respectively, to the department or its
1879 warehouse operator, or to consumers at the location of the native
1880 winery or native distillery or its immediate vicinity.

1881 Any violation of this section by any manufacturer, rectifier
1882 or distiller shall be punished by a fine of not less than Five

1883 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
1884 (\$2,000.00), to which may be added imprisonment in the county jail
1885 not to exceed six (6) months.

1886 **SECTION 25.** Section 67-1-49, Mississippi Code of 1972, is
1887 amended as follows:

1888 67-1-49. All distillers or distributors having contracts
1889 with the * * * department or its warehouse operator for the sale
1890 of alcoholic beverages to * * * the department or its warehouse
1891 operator, shall, on or before February 1st of each year, file a
1892 statement, under oath, with the * * * department and with the
1893 Secretary of State, listing the names and addresses of each
1894 person, firm or corporation in Mississippi to whom or which said
1895 distiller or distributor shall have paid or agreed to pay any fee,
1896 retainer, salary, or remuneration, during the preceding year,
1897 together with a statement of the purpose for such payment.
1898 Failure to file such statement shall constitute grounds for
1899 the * * * department to suspend the right of the distiller or
1900 distributor to sell to * * * the department or its warehouse
1901 operator until such time as said statement shall be filed.

1902 **SECTION 26.** Section 67-1-51, Mississippi Code of 1972, is
1903 amended as follows:

1904 67-1-51. (1) Permits which may be issued by the department
1905 shall be as follows:

1906 (a) **Manufacturer's permit.** A manufacturer's permit
1907 shall permit the manufacture, importation in bulk, bottling and
1908 storage of alcoholic liquor and its distribution and sale to

1909 manufacturers holding permits under this chapter in this state and
1910 to persons outside the state who are authorized by law to purchase
1911 the same, and to sell as provided by this chapter.

1912 Manufacturer's permits shall be of the following classes:

1913 Class 1. Distiller's and/or rectifier's permit, which shall
1914 authorize the holder thereof to operate a distillery for the
1915 production of distilled spirits by distillation or redistillation
1916 and/or to operate a rectifying plant for the purifying, refining,
1917 mixing, blending, flavoring or reducing in proof of distilled
1918 spirits and alcohol.

1919 Class 2. Wine manufacturer's permit, which shall authorize
1920 the holder thereof to manufacture, import in bulk, bottle and
1921 store wine or vinous liquor.

1922 Class 3. Native wine producer's permit, which shall
1923 authorize the holder thereof to produce, bottle, store and sell
1924 native wines.

1925 Class 4. Native spirit producer's permit, which shall
1926 authorize the holder thereof to produce, bottle, store and sell
1927 native spirits.

1928 (b) **Package retailer's permit.** Except as otherwise
1929 provided in this paragraph and Section 67-1-52, a package
1930 retailer's permit shall authorize the holder thereof to operate a
1931 store exclusively for the sale at retail in original sealed and
1932 unopened packages of alcoholic beverages, including native wines
1933 and native spirits, not to be consumed on the premises where sold.
1934 Alcoholic beverages shall not be sold by any retailer in any

1935 package or container containing less than fifty (50) milliliters
1936 by liquid measure. A package retailer's permit, with prior
1937 approval from the department, shall authorize the holder thereof
1938 to sample new product furnished by a manufacturer's representative
1939 or his employees at the permitted place of business so long as the
1940 sampling otherwise complies with this chapter and applicable
1941 department regulations. Such samples may not be provided to
1942 customers at the permitted place of business. In addition to the
1943 sale at retail of packages of alcoholic beverages, the holder of a
1944 package retailer's permit is authorized to sell at retail
1945 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
1946 other beverages commonly used to mix with alcoholic beverages.
1947 Nonalcoholic beverages sold by the holder of a package retailer's
1948 permit shall not be consumed on the premises where sold.

1949 (c) **On-premises retailer's permit.** Except as otherwise
1950 provided in subsection (5) of this section, an on-premises
1951 retailer's permit shall authorize the sale of alcoholic beverages,
1952 including native wines and native spirits, for consumption on the
1953 licensed premises only; however, a patron of the permit holder may
1954 remove one (1) bottle of wine from the licensed premises if: (i)
1955 the patron consumed a portion of the bottle of wine in the course
1956 of consuming a meal purchased on the licensed premises; (ii) the
1957 permit holder securely reseals the bottle; (iii) the bottle is
1958 placed in a bag that is secured in a manner so that it will be
1959 visibly apparent if the bag is opened; and (iv) a dated receipt
1960 for the wine and the meal is available. Additionally, as part of

1961 a carryout order, a permit holder may sell one (1) bottle of wine
1962 to be removed from the licensed premises for every two (2) entrees
1963 ordered. Such a permit shall be issued only to qualified hotels,
1964 restaurants and clubs, small craft breweries, microbreweries, and
1965 to common carriers with adequate facilities for serving
1966 passengers. In resort areas, whether inside or outside of a
1967 municipality, the department, in its discretion, may issue
1968 on-premises retailer's permits to such establishments as it deems
1969 proper. An on-premises retailer's permit when issued to a common
1970 carrier shall authorize the sale and serving of alcoholic
1971 beverages aboard any licensed vehicle while moving through any
1972 county of the state; however, the sale of such alcoholic beverages
1973 shall not be permitted while such vehicle is stopped in a county
1974 that has not legalized such sales. If an on-premises retailer's
1975 permit is applied for by a common carrier operating solely in the
1976 water, such common carrier must, along with all other
1977 qualifications for a permit, (i) be certified to carry at least
1978 one hundred fifty (150) passengers and/or provide overnight
1979 accommodations for at least fifty (50) passengers and (ii) operate
1980 primarily in the waters within the State of Mississippi which lie
1981 adjacent to the State of Mississippi south of the three (3) most
1982 southern counties in the State of Mississippi and/or on the
1983 Mississippi River or navigable waters within any county bordering
1984 on the Mississippi River.

1985 (d) **Solicitor's permit.** A solicitor's permit shall
1986 authorize the holder thereof to act as salesman for a manufacturer

1987 or wholesaler holding a proper permit, to solicit on behalf of his
1988 employer orders for alcoholic beverages, and to otherwise promote
1989 his employer's products in a legitimate manner. Such a permit
1990 shall authorize the representation of and employment by one (1)
1991 principal only. However, the permittee may also, in the
1992 discretion of the department, be issued additional permits to
1993 represent other principals. No such permittee shall buy or sell
1994 alcoholic beverages for his own account, and no such beverage
1995 shall be brought into this state in pursuance of the exercise of
1996 such permit otherwise than through a permit issued to a wholesaler
1997 or manufacturer in the state.

1998 (e) **Native wine retailer's permit.** Except as otherwise
1999 provided in subsection (5) of this section, a native wine
2000 retailer's permit shall be issued only to a holder of a Class 3
2001 manufacturer's permit, and shall authorize the holder thereof to
2002 make retail sales of native wines to consumers for on-premises
2003 consumption or to consumers in originally sealed and unopened
2004 containers at an establishment located on the premises of or in
2005 the immediate vicinity of a native winery. When selling to
2006 consumers for on-premises consumption, a holder of a native wine
2007 retailer's permit may add to the native wine alcoholic beverages
2008 not produced on the premises, so long as the total volume of
2009 foreign beverage components does not exceed twenty percent (20%)
2010 of the mixed beverage. Hours of sale shall be the same as those
2011 authorized for on-premises permittees in the city or county in
2012 which the native wine retailer is located.

2013 (f) **Temporary retailer's permit.** Except as otherwise
2014 provided in subsection (5) of this section, a temporary retailer's
2015 permit shall permit the purchase and resale of alcoholic
2016 beverages, including native wines and native spirits, during legal
2017 hours on the premises described in the temporary permit only.

2018 Temporary retailer's permits shall be of the following
2019 classes:

2020 Class 1. A temporary one-day permit may be issued to bona
2021 fide nonprofit civic or charitable organizations authorizing the
2022 sale of alcoholic beverages, including native wine and native
2023 spirit, for consumption on the premises described in the temporary
2024 permit only. Class 1 permits may be issued only to applicants
2025 demonstrating to the department, by a statement signed under
2026 penalty of perjury submitted ten (10) days prior to the proposed
2027 date or such other time as the department may determine, that they
2028 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
2029 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
2030 Class 1 permittees shall obtain all alcoholic beverages from
2031 package retailers located in the county in which the temporary
2032 permit is issued. Alcoholic beverages remaining in stock upon
2033 expiration of the temporary permit may be returned by the
2034 permittee to the package retailer for a refund of the purchase
2035 price upon consent of the package retailer or may be kept by the
2036 permittee exclusively for personal use and consumption, subject to
2037 all laws pertaining to the illegal sale and possession of
2038 alcoholic beverages. The department, following review of the

2039 statement provided by the applicant and the requirements of the
2040 applicable statutes and regulations, may issue the permit.

2041 Class 2. A temporary permit, not to exceed seventy (70)
2042 days, may be issued to prospective permittees seeking to transfer
2043 a permit authorized in paragraph (c) of this subsection. A Class
2044 2 permit may be issued only to applicants demonstrating to the
2045 department, by a statement signed under the penalty of perjury,
2046 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
2047 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
2048 67-1-59. The department, following a preliminary review of the
2049 statement provided by the applicant and the requirements of the
2050 applicable statutes and regulations, may issue the permit.

2051 Class 2 temporary permittees must purchase their alcoholic
2052 beverages directly from the department or its warehouse operator
2053 or, with approval of the department, purchase the remaining stock
2054 of the previous permittee. If the proposed applicant of a Class 1
2055 or Class 2 temporary permit falsifies information contained in the
2056 application or statement, the applicant shall never again be
2057 eligible for a retail alcohol beverage permit and shall be subject
2058 to prosecution for perjury.

2059 Class 3. A temporary one-day permit may be issued to a
2060 retail establishment authorizing the complimentary distribution of
2061 wine, including native wine, to patrons of the retail
2062 establishment at an open house or promotional event, for
2063 consumption only on the premises described in the temporary
2064 permit. A Class 3 permit may be issued only to an applicant

2065 demonstrating to the department, by a statement signed under
2066 penalty of perjury submitted ten (10) days before the proposed
2067 date or such other time as the department may determine, that it
2068 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
2069 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
2070 A Class 3 permit holder shall obtain all alcoholic beverages from
2071 the holder(s) of a package retailer's permit located in the county
2072 in which the temporary permit is issued. Wine remaining in stock
2073 upon expiration of the temporary permit may be returned by the
2074 Class 3 temporary permit holder to the package retailer for a
2075 refund of the purchase price, with consent of the package
2076 retailer, or may be kept by the Class 3 temporary permit holder
2077 exclusively for personal use and consumption, subject to all laws
2078 pertaining to the illegal sale and possession of alcoholic
2079 beverages. The department, following review of the statement
2080 provided by the applicant and the requirements of the applicable
2081 statutes and regulations, may issue the permit. No retailer may
2082 receive more than twelve (12) Class 3 temporary permits in a
2083 calendar year. A Class 3 temporary permit shall not be issued to
2084 a retail establishment that either holds a merchant permit issued
2085 under paragraph (1) of this subsection, or holds a permit issued
2086 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
2087 the holder to engage in the business of a retailer of light wine
2088 or beer.

2089 (g) **Caterer's permit.** A caterer's permit shall permit
2090 the purchase of alcoholic beverages by a person engaging in

2091 business as a caterer and the resale of alcoholic beverages by
2092 such person in conjunction with such catering business. No person
2093 shall qualify as a caterer unless forty percent (40%) or more of
2094 the revenue derived from such catering business shall be from the
2095 serving of prepared food and not from the sale of alcoholic
2096 beverages and unless such person has obtained a permit for such
2097 business from the Department of Health. A caterer's permit shall
2098 not authorize the sale of alcoholic beverages on the premises of
2099 the person engaging in business as a caterer; however, the holder
2100 of an on-premises retailer's permit may hold a caterer's permit.
2101 When the holder of an on-premises retailer's permit or an
2102 affiliated entity of the holder also holds a caterer's permit, the
2103 caterer's permit shall not authorize the service of alcoholic
2104 beverages on a consistent, recurring basis at a separate, fixed
2105 location owned or operated by the caterer, on-premises retailer or
2106 affiliated entity and an on-premises retailer's permit shall be
2107 required for the separate location. All sales of alcoholic
2108 beverages by holders of a caterer's permit shall be made at the
2109 location being catered by the caterer, and, except as otherwise
2110 provided in subsection (5) of this section, such sales may be made
2111 only for consumption at the catered location. The location being
2112 catered may be anywhere within a county or judicial district that
2113 has voted to come out from under the dry laws or in which the sale
2114 and distribution of alcoholic beverages is otherwise authorized by
2115 law. Such sales shall be made pursuant to any other conditions
2116 and restrictions which apply to sales made by on-premises retail

2117 permittees. The holder of a caterer's permit or his employees
2118 shall remain at the catered location as long as alcoholic
2119 beverages are being sold pursuant to the permit issued under this
2120 paragraph (g), and the permittee shall have at the location the
2121 identification card issued by the Alcoholic Beverage Control
2122 Division of the department. No unsold alcoholic beverages may be
2123 left at the catered location by the permittee upon the conclusion
2124 of his business at that location. Appropriate law enforcement
2125 officers and Alcoholic Beverage Control Division personnel may
2126 enter a catered location on private property in order to enforce
2127 laws governing the sale or serving of alcoholic beverages.

2128 (h) **Research permit.** A research permit shall authorize
2129 the holder thereof to operate a research facility for the
2130 professional research of alcoholic beverages. Such permit shall
2131 authorize the holder of the permit to import and purchase limited
2132 amounts of alcoholic beverages from the department or from
2133 importers, wineries and distillers of alcoholic beverages for
2134 professional research.

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

2143 beverages. The amounts of alcoholic beverages allowed under an
2144 alcohol processing permit shall be set by the department.

2145 (j) **Hospitality cart permit.** A hospitality cart permit
2146 shall authorize the sale of alcoholic beverages from a mobile cart
2147 on a golf course that is the holder of an on-premises retailer's
2148 permit. The alcoholic beverages sold from the cart must be
2149 consumed within the boundaries of the golf course.

2150 (k) **Special service permit.** A special service permit
2151 shall authorize the holder to sell commercially sealed alcoholic
2152 beverages to the operator of a commercial or private aircraft for
2153 en route consumption only by passengers. A special service permit
2154 shall be issued only to a fixed-base operator who contracts with
2155 an airport facility to provide fueling and other associated
2156 services to commercial and private aircraft.

2157 (l) **Merchant permit.** Except as otherwise provided in
2158 subsection (5) of this section, a merchant permit shall be issued
2159 only to the owner of a spa facility, an art studio or gallery, or
2160 a cooking school, and shall authorize the holder to serve
2161 complimentary by the glass wine only, including native wine, at
2162 the holder's spa facility, art studio or gallery, or cooking
2163 school. A merchant permit holder shall obtain all wine from the
2164 holder of a package retailer's permit.

2165 (m) **Temporary alcoholic beverages charitable auction**
2166 **permit.** A temporary permit, not to exceed five (5) days, may be
2167 issued to a qualifying charitable nonprofit organization that is
2168 exempt from taxation under Section 501(c)(3) or (4) of the

2169 Internal Revenue Code of 1986. The permit shall authorize the
2170 holder to sell alcoholic beverages for the limited purpose of
2171 raising funds for the organization during a live or silent auction
2172 that is conducted by the organization and that meets the following
2173 requirements: (i) the auction is conducted in an area of the
2174 state where the sale of alcoholic beverages is authorized; (ii) if
2175 the auction is conducted on the premises of an on-premises
2176 retailer's permit holder, then the alcoholic beverages to be
2177 auctioned must be stored separately from the alcoholic beverages
2178 sold, stored or served on the premises, must be removed from the
2179 premises immediately following the auction, and may not be
2180 consumed on the premises; (iii) the permit holder may not conduct
2181 more than two (2) auctions during a calendar year; (iv) the permit
2182 holder may not pay a commission or promotional fee to any person
2183 to arrange or conduct the auction.

2184 (n) **Event venue retailer's permit.** An event venue
2185 retailer's permit shall authorize the holder thereof to purchase
2186 and resell alcoholic beverages, including native wines and native
2187 spirits, for consumption on the premises during legal hours during
2188 events held on the licensed premises if food is being served at
2189 the event by a caterer who is not affiliated with or related to
2190 the permittee. The caterer must serve at least three (3) entrees.
2191 The permit may only be issued for venues that can accommodate two
2192 hundred (200) persons or more. The number of persons a venue may
2193 accommodate shall be determined by the local fire department and
2194 such determination shall be provided in writing and submitted

2195 along with all other documents required to be provided for an
2196 on-premises retailer's permit. The permittee must derive the
2197 majority of its revenue from event-related fees, including, but
2198 not limited to, admission fees or ticket sales for live
2199 entertainment in the building. "Event-related fees" do not
2200 include alcohol, beer or light wine sales or any fee which may be
2201 construed to cover the cost of alcohol, beer or light wine. This
2202 determination shall be made on a per event basis. An event may
2203 not last longer than two (2) consecutive days per week.

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

2221 or may be kept by the permittee exclusively for personal use and
2222 consumption, subject to all laws pertaining to the illegal sale
2223 and possession of alcoholic beverages.

2224 (p) **Charter ship operator's permit.** Subject to the
2225 provisions of this paragraph (p), a charter ship operator's permit
2226 shall authorize the holder thereof and its employees to serve,
2227 monitor, store and otherwise control the serving and availability
2228 of alcoholic beverages to customers of the permit holder during
2229 private charters under contract provided by the permit holder. A
2230 charter ship operator's permit shall authorize such action by the
2231 permit holder and its employees only as to alcoholic beverages
2232 brought onto the permit holder's ship by customers of the permit
2233 holder as part of such a private charter. All such alcoholic
2234 beverages must be removed from the charter ship at the conclusion
2235 of each private charter. A charter ship operator's permit shall
2236 not authorize the permit holder to sell, charge for or otherwise
2237 supply alcoholic beverages to customers, except as authorized in
2238 this paragraph (p). For the purposes of this paragraph (p),
2239 "charter ship operator" means a common carrier that (i) is
2240 certified to carry at least one hundred fifty (150) passengers
2241 and/or provide overnight accommodations for at least fifty (50)
2242 passengers, (ii) operates only in the waters within the State of
2243 Mississippi, which lie adjacent to the State of Mississippi south
2244 of the three (3) most southern counties in the State of
2245 Mississippi, and (iii) provides charters under contract for tours
2246 and trips in such waters.

2247 (q) **Distillery retailer's permit.** The holder of a
2248 Class 1 manufacturer's permit may obtain a distillery retailer's
2249 permit. A distillery retailer's permit shall authorize the holder
2250 thereof to sell at retail alcoholic beverages to consumers for
2251 on-premises consumption, or to consumers by the sealed and
2252 unopened bottle from a retail location at the distillery for
2253 off-premises consumption. The holder may only sell product
2254 manufactured by the manufacturer at the distillery described in
2255 the permit. However, when selling to consumers for on-premises
2256 consumption, a holder of a distillery retailer's permit may add
2257 other beverages, alcoholic or not, so long as the total volume of
2258 other beverage components containing alcohol does not exceed
2259 twenty percent (20%). Hours of sale shall be the same as those
2260 authorized for on-premises permittees in the city or county in
2261 which the distillery retailer is located.

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

2273 warehouse; however, if the holder does not purchase the alcoholic
2274 beverages from the department's liquor distribution warehouse, the
2275 holder shall pay to the department all taxes, fees and surcharges
2276 on the alcoholic beverages that are imposed upon the sale of
2277 alcoholic beverages shipped by the * * * department or its
2278 warehouse operator. In addition to alcoholic beverages, the
2279 holder of a distillery retailer's permit may sell at retail
2280 promotional products from the same retail location, including
2281 shirts, hats, glasses, and other promotional products customarily
2282 sold by alcoholic beverage manufacturers.

2283 (r) **Festival Wine Permit.** Any wine manufacturer or
2284 native wine producer permitted by Mississippi or any other state
2285 is eligible to obtain a Festival Wine Permit. This permit
2286 authorizes the entity to transport product manufactured by it to
2287 festivals held within the State of Mississippi and sell sealed,
2288 unopened bottles to festival participants. The holder of this
2289 permit may provide samples at no charge to participants.

2290 "Festival" means any event at which three (3) or more vendors are
2291 present at a location for the sale or distribution of goods. The
2292 holder of a Festival Wine Permit is not required to purchase the
2293 alcoholic beverages authorized to be sold by this paragraph from
2294 the department's liquor distribution warehouse. However, if the
2295 holder does not purchase the alcoholic beverages from the
2296 department's liquor distribution warehouse, the holder of this
2297 permit shall pay to the department all taxes, fees and surcharges
2298 on the alcoholic beverages sold at such festivals that are imposed

2299 upon the sale of alcoholic beverages shipped by the Alcoholic
2300 Beverage Control Division of the Department of Revenue.
2301 Additionally, the entity shall file all applicable reports and
2302 returns as prescribed by the department. This permit is issued
2303 per festival and provides authority to sell for two (2)
2304 consecutive days during the hours authorized for on-premises
2305 permittees' sales in that county or city. The holder of the
2306 permit shall be required to maintain all requirements set by Local
2307 Option Law for the service and sale of alcoholic beverages. This
2308 permit may be issued to entities participating in festivals at
2309 which a Class 1 temporary permit is in effect.

2310 This paragraph (r) shall stand repealed from and after July
2311 1, 2023.

2312 (s) **Charter vessel operator's permit.** Subject to the
2313 provisions of this paragraph (s), a charter vessel operator's
2314 permit shall authorize the holder thereof and its employees to
2315 sell and serve alcoholic beverages to passengers of the permit
2316 holder during public tours, historical tours, ecological tours and
2317 sunset cruises provided by the permit holder. The permit shall
2318 authorize the holder to only sell alcoholic beverages, including
2319 native wines, to passengers of the charter vessel operator during
2320 public tours, historical tours, ecological tours and sunset
2321 cruises provided by the permit holder aboard the charter vessel
2322 operator for consumption during such tours and cruises on the
2323 premises of the charter vessel operator described in the permit.
2324 For the purposes of this paragraph (s), "charter vessel operator"

2325 means a common carrier that (i) is certified to carry at least
2326 forty-nine (49) passengers, (ii) operates only in the waters
2327 within the State of Mississippi, which lie south of Interstate 10
2328 in the three (3) most southern counties in the State of
2329 Mississippi, and lie adjacent to the State of Mississippi south of
2330 the three (3) most southern counties in the State of Mississippi,
2331 extending not further than one (1) mile south of such counties,
2332 and (iii) provides vessel services for tours and cruises in such
2333 waters as provided in this paragraph (s).

2334 (t) **Native spirit retailer's permit.** Except as
2335 otherwise provided in subsection (5) of this section, a native
2336 spirit retailer's permit shall be issued only to a holder of a
2337 Class 4 manufacturer's permit, and shall authorize the holder
2338 thereof to make retail sales of native spirits to consumers for
2339 on-premises consumption or to consumers in originally sealed and
2340 unopened containers at an establishment located on the premises of
2341 or in the immediate vicinity of a native distillery. When selling
2342 to consumers for on-premises consumption, a holder of a native
2343 spirit retailer's permit may add to the native spirit alcoholic
2344 beverages not produced on the premises, so long as the total
2345 volume of foreign beverage components does not exceed twenty
2346 percent (20%) of the mixed beverage. Hours of sale shall be the
2347 same as those authorized for on-premises permittees in the city or
2348 county in which the native spirit retailer is located.

2349 (u) **Delivery service permit.** Any individual, limited
2350 liability company, corporation or partnership registered to do

2351 business in this state is eligible to obtain a delivery service
2352 permit. Subject to the provisions of Section 67-1-51.1, this
2353 permit authorizes the permittee, or its employee or an independent
2354 contractor acting on its behalf, to deliver alcoholic beverages,
2355 beer, light wine and light spirit product from a licensed retailer
2356 to a person in this state who is at least twenty-one (21) years of
2357 age for the individual's use and not for resale. This permit does
2358 not authorize the delivery of alcoholic beverages, beer, light
2359 wine or light spirit product to the premises of a location with a
2360 permit for the manufacture, distribution or retail sale of
2361 alcoholic beverages, beer, light wine or light spirit product.
2362 The holder of a package retailer's permit or an on-premises
2363 retailer's permit under Section 67-1-51 or of a beer, light wine
2364 and light spirit product permit under Section 67-3-19 is
2365 authorized to apply for a delivery service permit as a privilege
2366 separate from its existing retail permit.

2367 (2) Except as otherwise provided in subsection (4) of this
2368 section, retail permittees may hold more than one (1) retail
2369 permit, at the discretion of the department.

2370 (3) (a) Except as otherwise provided in this subsection, no
2371 authority shall be granted to any person to manufacture, sell or
2372 store for sale any intoxicating liquor as specified in this
2373 chapter within four hundred (400) feet of any church, school,
2374 kindergarten or funeral home. However, within an area zoned
2375 commercial or business, such minimum distance shall be not less
2376 than one hundred (100) feet.

2377 (b) A church or funeral home may waive the distance
2378 restrictions imposed in this subsection in favor of allowing
2379 issuance by the department of a permit, pursuant to subsection (1)
2380 of this section, to authorize activity relating to the
2381 manufacturing, sale or storage of alcoholic beverages which would
2382 otherwise be prohibited under the minimum distance criterion.
2383 Such waiver shall be in written form from the owner, the governing
2384 body, or the appropriate officer of the church or funeral home
2385 having the authority to execute such a waiver, and the waiver
2386 shall be filed with and verified by the department before becoming
2387 effective.

2388 (c) The distance restrictions imposed in this
2389 subsection shall not apply to the sale or storage of alcoholic
2390 beverages at a bed and breakfast inn listed in the National
2391 Register of Historic Places or to the sale or storage of alcoholic
2392 beverages in a historic district that is listed in the National
2393 Register of Historic Places, is a qualified resort area and is
2394 located in a municipality having a population greater than one
2395 hundred thousand (100,000) according to the latest federal
2396 decennial census.

2397 (d) The distance restrictions imposed in this
2398 subsection shall not apply to the sale or storage of alcoholic
2399 beverages at a qualified resort area as defined in Section
2400 67-1-5(o)(iii)32.

2401 (e) The distance restrictions imposed in this
2402 subsection shall not apply to the sale or storage of alcoholic

2403 beverages at a licensed premises in a building formerly owned by a
2404 municipality and formerly leased by the municipality to a
2405 municipal school district and used by the municipal school
2406 district as a district bus shop facility.

2407 (f) The distance restrictions imposed in this
2408 subsection shall not apply to the sale or storage of alcoholic
2409 beverages at a licensed premises in a building consisting of at
2410 least five thousand (5,000) square feet and located approximately
2411 six hundred (600) feet from the intersection of Mississippi
2412 Highway 15 and Mississippi Highway 4.

2413 (g) The distance restrictions imposed in this
2414 subsection shall not apply to the sale or storage of alcoholic
2415 beverages at a licensed premises in a building located at the
2416 southeast corner of Ward and Tate Streets in the City of
2417 Senatobia, Mississippi.

2418 (4) No person, either individually or as a member of a firm,
2419 partnership, limited liability company or association, or as a
2420 stockholder, officer or director in a corporation, shall own or
2421 control any interest in more than one (1) package retailer's
2422 permit, nor shall such person's spouse, if living in the same
2423 household of such person, any relative of such person, if living
2424 in the same household of such person, or any other person living
2425 in the same household with such person own any interest in any
2426 other package retailer's permit.

2427 (5) (a) In addition to any other authority granted under
2428 this section, the holder of a permit issued under subsection

2429 (1) (c), (e), (f), (g), (l), (n) and/or (o) of this section may
2430 sell or otherwise provide alcoholic beverages and/or wine to a
2431 patron of the permit holder in the manner authorized in the permit
2432 and the patron may remove an open glass, cup or other container of
2433 the alcoholic beverage and/or wine from the licensed premises and
2434 may possess and consume the alcoholic beverage or wine outside of
2435 the licensed premises if: (i) the licensed premises is located
2436 within a leisure and recreation district created under Section
2437 67-1-101 and (ii) the patron remains within the boundaries of the
2438 leisure and recreation district while in possession of the
2439 alcoholic beverage or wine.

2440 (b) Nothing in this subsection shall be construed to
2441 allow a person to bring any alcoholic beverages into a permitted
2442 premises except to the extent otherwise authorized by this
2443 chapter.

2444 **SECTION 27.** Section 67-5-5, Mississippi Code of 1972, is
2445 amended as follows:

2446 67-5-5. For purposes of this chapter, the following words
2447 and phrases shall have the definitions ascribed herein, unless the
2448 context otherwise requires:

2449 (a) "Native wine" shall mean any product, produced in
2450 Mississippi for sale, having an alcohol content not to exceed
2451 twenty-one percent (21%) by weight and made in accordance with
2452 revenue laws of the United States, which shall be obtained
2453 primarily from the alcoholic fermentation of the juice of ripe
2454 grapes, fruits, berries, honey or vegetables grown and produced in

2455 Mississippi; provided that bulk, concentrated or fortified wines
2456 used for blending may be produced without this state and used in
2457 producing native wines. The commission shall adopt and promulgate
2458 rules and regulations to permit a producer to import such bulk
2459 and/or fortified wines into this state for use in blending with
2460 native wines without payment of any excise tax that would
2461 otherwise accrue thereon. In order to be classified as "native
2462 wine" under the provisions of this chapter, at least fifty-one
2463 percent (51%) of the finished product by volume shall have been
2464 obtained from fermentation of grapes, fruits, berries, honey or
2465 vegetables grown and produced in Mississippi.

2466 (b) "Native winery" shall mean any place or
2467 establishment within this state where native wine is produced in
2468 whole or in part for sale.

2469 (c) "Produce" shall mean to do or to perform any act or
2470 thing in the process of making native wine.

2471 (d) "Person" shall mean one or more natural persons, or
2472 a corporation, partnership or association.

2473 (e) "Producer" shall mean any person who owns, operates
2474 or conducts a native winery, but it does not mean the employees of
2475 such persons.

2476 (f) "Consumer" shall mean any person who purchases
2477 native wine for the purpose of consuming it, giving it away, or
2478 distributing it in any way other than by sale, barter or exchange.

2479 (g) "Commission" or "department" shall mean the
2480 Mississippi * * * Department of Revenue.

2481 (h) "Division" shall mean the Alcoholic Beverage
2482 Control Division of the * * * department.

2483 **SECTION 28.** Section 67-5-11, Mississippi Code of 1972, is
2484 amended as follows:

2485 67-5-11. (1) Within the State of Mississippi, every native
2486 winery is authorized to make sales to the department or its
2487 warehouse operator, or to consumers at the location of the native
2488 winery or its immediate vicinity. Every native winery is
2489 authorized to make sales to any producer, manufacturer,
2490 wholesaler, retailer or consumer located outside of the State of
2491 Mississippi who are authorized by law to purchase the same.

2492 (2) With respect to native wines or distilled spirits sold
2493 by the department or its warehouse operator to retailers under
2494 Section 67-1-41, the native winery or distillery retailer may hold
2495 those wines or spirits for onsite pickup instead of shipping them
2496 to the department warehouse, at the option of the retailer and
2497 pursuant to any rules promulgated by the department.

2498 **SECTION 29.** Section 67-5-13, Mississippi Code of 1972, is
2499 amended as follows:

2500 67-5-13. (1) Upon every producer holding a permit for the
2501 production of native wine, there is levied and imposed for each
2502 location for the privilege of engaging and continuing in this
2503 state in the production of native wine an annual privilege license
2504 tax in an amount equal to Ten Dollars (\$10.00) for each ten
2505 thousand (10,000) gallons, or any part thereof, of native wine
2506 produced by the winery.

2507 (2) There is levied and assessed an excise tax upon each
2508 case of native wine sold by a producer to any source to be
2509 collected from the producer in the amount provided for in Section
2510 27-71-7. However, native wine produced in Mississippi for export
2511 and sale without this state and native wine produced in
2512 Mississippi and sold to the * * * department or its warehouse
2513 operator shall not be subject to the excise tax, nor shall the tax
2514 accrue or be collected on native wines dispensed, as free samples
2515 in quantities of not more than six (6) ounces, in the tasting room
2516 of a native winery.

2517 (3) The privilege tax imposed by subsection (1) of this
2518 section shall be collected in the same manner as presently
2519 provided by law for the collection of other alcoholic beverages.
2520 The excise tax imposed by subsection (2) of this section shall be
2521 reported monthly by the producer to the * * * department on all
2522 sales made in Mississippi to consumers at the location of the
2523 native winery or its immediate vicinity, along with a statement of
2524 gallonage produced during that month, and the producer shall remit
2525 the tax due and owing with each report. The producer shall also
2526 include in the report a statement of gallonage sold and exported
2527 for sale outside this state.

2528 (4) All taxes levied by and collected under this section
2529 shall be deposited in the General Fund.

2530 **SECTION 30.** Section 67-11-9, Mississippi Code of 1972, is
2531 amended as follows:

2532 67-11-9. (1) Within the State of Mississippi, every native
2533 distillery is authorized to make sales to the department or its
2534 warehouse operator, or to consumers at the location of the native
2535 distillery or its immediate vicinity. Every native distillery is
2536 authorized to make sales to any producer, manufacturer,
2537 wholesaler, retailer or consumer located outside of the State of
2538 Mississippi who is authorized by law to purchase the same.

2539 (2) With respect to native spirits sold by the department or
2540 its warehouse operator to retailers under Section 67-1-41, the
2541 native distillery may hold those spirits for onsite pickup instead
2542 of shipping them to the department warehouse, at the option of the
2543 retailer and pursuant to any rules promulgated by the department.

2544 **SECTION 31.** Section 67-11-11, Mississippi Code of 1972, is
2545 amended as follows:

2546 67-11-11. (1) Upon every producer holding a permit for the
2547 production of native spirits, there is levied and imposed for each
2548 location for the privilege of engaging and continuing in this
2549 state in the production of native spirits an annual privilege
2550 license tax in an amount equal to Ten Dollars (\$10.00) for each
2551 one thousand (1,000) gallons, or any part thereof, of native
2552 spirits produced by the distillery.

2553 (2) There is levied and assessed an excise tax upon each
2554 case of native spirit sold by a producer to any source to be
2555 collected from the producer in the amount provided for in Section
2556 27-71-7. However, native spirit produced in Mississippi for
2557 export and sale without this state and native spirit produced in

2558 Mississippi and sold to the department or its warehouse operator
2559 shall not be subject to the excise tax, nor shall the tax accrue
2560 or be collected on native spirits dispensed, as free samples in
2561 quantities of not more than two (2) ounces, in the tasting room of
2562 a native distillery.

2563 (3) The privilege tax imposed by subsection (1) of this
2564 section shall be collected in the same manner as presently
2565 provided by law for the collection of other alcoholic beverages.
2566 The excise tax imposed by subsection (2) of this section shall be
2567 reported monthly by the producer to the department on all sales
2568 made in Mississippi to consumers at the location of the native
2569 distillery in its immediate vicinity, along with a statement of
2570 gallonage produced during that month, and the producer shall remit
2571 the tax due and owing with each report. The producer shall also
2572 include in the report a statement of gallonage sold and exported
2573 for sale outside this state.

2574 (4) All taxes levied by and collected under this section
2575 shall be deposited in the State General Fund.

2576 **SECTION 32.** Sections 1 through 6 of this act shall be
2577 codified as a new article in Title 67, Chapter 1, Mississippi Code
2578 of 1972.

2579 **SECTION 33.** This act shall take effect and be in force from
2580 and after July 1, 2022, and shall stand repealed on June 30, 2022.

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

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.

SS08\HB512A.J

Eugene S. Clarke
Secretary of the Senate