

By: Senator(s) McMahan, Chassaniol, Boyd

To: Tourism; Finance

SENATE BILL NO. 2006

1 AN ACT TO AMEND SECTIONS 27-71-5, 67-1-41, 67-1-51 AND
2 67-1-77, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALERS AND
3 REVERTERS ON THE PROVISIONS OF LAW RELATING TO FESTIVAL WINE
4 PERMITS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-71-5, Mississippi Code of 1972, is
7 amended as follows:

8 27-71-5. (1) Upon each person approved for a permit under
9 the provisions of the Alcoholic Beverage Control Law and
10 amendments thereto, there is levied and imposed for each location
11 for the privilege of engaging and continuing in this state in the
12 business authorized by such permit, an annual privilege license
13 tax in the amount provided in the following schedule:

14 (a) Except as otherwise provided in this subsection
15 (1), manufacturer's permit, Class 1, distiller's and/or
16 rectifier's:

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



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

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

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

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

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

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

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

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

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

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

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

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



44	(m)	Temporary permit, Class 1, each.....	\$ 10.00
45	(n)	Temporary permit, Class 2, each.....	\$ 50.00
46	(o)	(i) Caterer's permit.....	\$ 600.00
47		(ii) Caterer's permit for holders of on-premises	
48		retailer's permit.....	\$ 150.00
49	(p)	Research permit.....	\$ 100.00
50	(q)	Temporary permit, Class 3 (wine only).....	\$ 10.00
51	(r)	Special service permit.....	\$ 225.00
52	(s)	Merchant permit.....	\$ 225.00
53	(t)	Temporary alcoholic beverages charitable auction	
54		permit.....	\$ 10.00
55	(u)	Event venue retailer's permit.....	\$ 225.00
56	(v)	Temporary theatre permit, each.....	\$ 10.00
57	(w)	Charter ship operator's permit.....	\$ 100.00
58	(x)	Distillery retailer's permit.....	\$ 450.00
59	(y)	Festival wine permit.....	\$ 10.00
60	(z)	Charter vessel operator's permit.....	\$ 100.00
61	(aa)	Native spirit retailer's permit.....	\$ 50.00
62	(bb)	Delivery service permit.....	\$ 500.00
63	(cc)	Food truck permit.....	\$ 100.00

64 In addition to the filing fee imposed by paragraph (l) of
65 this subsection, a fee to be determined by the Department of
66 Revenue may be charged to defray costs incurred to process
67 applications. The additional fees shall be paid into the State
68 Treasury to the credit of a special fund account, which is hereby



69 created, and expenditures therefrom shall be made only to defray
70 the costs incurred by the Department of Revenue in processing
71 alcoholic beverage applications. Any unencumbered balance
72 remaining in the special fund account on June 30 of any fiscal
73 year shall lapse into the State General Fund.

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

80 * * *

81 (2) (a) There is imposed and shall be collected from each
82 permittee, except a common carrier, solicitor, a temporary
83 permittee or a delivery service permittee, by the department, an
84 additional license tax equal to the amounts imposed under
85 subsection (1) of this section for the privilege of doing business
86 within any municipality or county in which the licensee is
87 located.

88 (b) (i) In addition to the tax imposed in paragraph
89 (a) of this subsection, there is imposed and shall be collected by
90 the department from each permittee described in subsection (1)(g),
91 (h), (i), (n) and (u) of this section, an additional license tax
92 for the privilege of doing business within any municipality or
93 county in which the licensee is located in the amount of Two



94 Hundred Twenty-five Dollars (\$225.00) on purchases exceeding Five
95 Thousand Dollars (\$5,000.00) and Two Hundred Twenty-five Dollars
96 (\$225.00) for each additional purchase of Five Thousand Dollars
97 (\$5,000.00), or fraction thereof.

98 (ii) In addition to the tax imposed in paragraph
99 (a) of this subsection, there is imposed and shall be collected by
100 the department from each permittee described in subsection (1)(o)
101 and (s) of this section, an additional license tax for the
102 privilege of doing business within any municipality or county in
103 which the licensee is located in the amount of Two Hundred Fifty
104 Dollars (\$250.00) on purchases exceeding Five Thousand Dollars
105 (\$5,000.00) and Two Hundred Twenty-five Dollars (\$225.00) for each
106 additional purchase of Five Thousand Dollars (\$5,000.00), or
107 fraction thereof.

108 (iii) Any person who has paid the additional
109 privilege license tax imposed by this paragraph, and whose permit
110 is renewed, may add any unused fraction of Five Thousand Dollars
111 (\$5,000.00) purchases to the first Five Thousand Dollars
112 (\$5,000.00) purchases authorized by the renewal permit, and no
113 additional license tax will be required until purchases exceed the
114 sum of the two (2) figures.

115 (c) If the licensee is located within a municipality,
116 the department shall pay the amount of additional license tax
117 collected under this section to the municipality, and if outside a
118 municipality the department shall pay the additional license tax



119 to the county in which the licensee is located. Payments by the
120 department to the respective local government subdivisions shall
121 be made once each month for any collections during the preceding
122 month.

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

129 (4) The number of permits issued by the department shall not
130 be restricted or limited on a population basis; however, the
131 foregoing limitation shall not be construed to preclude the right
132 of the department to refuse to issue a permit because of the
133 undesirability of the proposed location.

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

142 (6) It shall be unlawful for any person to consume alcoholic
143 beverages on the premises of any hotel restaurant, restaurant,



144 club or the interior of any public place defined in Chapter 1,
145 Title 67, Mississippi Code of 1972, when the owner or manager
146 thereof displays in several conspicuous places inside the
147 establishment and at the entrances of establishment a sign
148 containing the following language: NO ALCOHOLIC BEVERAGES
149 ALLOWED.

150 **SECTION 2.** Section 67-1-41, Mississippi Code of 1972, is
151 amended as follows:

152 67-1-41. (1) The department is hereby created a wholesale
153 distributor and seller of alcoholic beverages, not including malt
154 liquors, within the State of Mississippi. It is granted the right
155 to import and sell alcoholic beverages at wholesale within the
156 state, and no person who is granted the right to sell, distribute
157 or receive alcoholic beverages at retail shall purchase any
158 alcoholic beverages from any source other than the department,
159 except as authorized in subsections (4), (9) and (12) of this
160 section. The department may establish warehouses, and the
161 department may purchase alcoholic beverages in such quantities and
162 from such sources as it may deem desirable and sell the alcoholic
163 beverages to authorized permittees within the state including, at
164 the discretion of the department, any retail distributors
165 operating within any military post or qualified resort areas
166 within the boundaries of the state, keeping a correct and accurate
167 record of all such transactions and exercising such control over



168 the distribution of alcoholic beverages as seem right and proper
169 in keeping with the provisions or purposes of this article.

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

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

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

189 (5) The department may promulgate rules which authorize the
190 holder of a package retailer's permit to permit individual retail
191 purchasers of packages of alcoholic beverages to return, for
192 exchange, credit or refund, limited amounts of original sealed and



193 unopened packages of alcoholic beverages purchased by the
194 individual from the package retailer.

195 (6) The department shall maintain all forms to be completed
196 by applicants necessary for licensure by the department at all
197 district offices of the department.

198 (7) The department may promulgate rules which authorize the
199 manufacturer of an alcoholic beverage or wine to import, transport
200 and furnish or give a sample of alcoholic beverages or wines to
201 the holders of package retailer's permits, on-premises retailer's
202 permits, native wine or native spirit retailer's permits and
203 temporary retailer's permits who have not previously purchased the
204 brand of that manufacturer from the department. For each holder
205 of the designated permits, the manufacturer may furnish not more
206 than five hundred (500) milliliters of any brand of alcoholic
207 beverage and not more than three (3) liters of any brand of wine.

208 (8) The department may promulgate rules disallowing open
209 product sampling of alcoholic beverages or wines by the holders of
210 package retailer's permits and permitting open product sampling of
211 alcoholic beverages by the holders of on-premises retailer's
212 permits. Permitted sample products shall be plainly identified
213 "sample" and the actual sampling must occur in the presence of the
214 manufacturer's representatives during the legal operating hours of
215 on-premises retailers.

216 (9) The department may promulgate rules and regulations that
217 authorize the holder of a research permit to import and purchase



218 limited amounts of alcoholic beverages from importers, wineries
219 and distillers of alcoholic beverages or from the department. The
220 department shall develop and provide forms to be completed by the
221 research permittee verifying each transaction. The completed
222 forms shall be forwarded to the department within a period of time
223 prescribed by the department. The records and inventory of
224 alcoholic beverages shall be open to inspection at any time by the
225 Director of the Alcoholic Beverage Control Division or any duly
226 authorized agent.

227 (10) The department may promulgate rules facilitating a
228 retailer's on-site pickup of alcoholic beverages sold by the
229 department or as authorized by the department, including, but not
230 limited to, native wines and native spirits, so that those
231 alcoholic beverages may be delivered to the retailer at the
232 manufacturer's location instead of via shipment from the
233 department's warehouse.

234 (11) * * * This section shall not apply to alcoholic
235 beverages authorized to be sold by the holder of a distillery
236 retailer's permit or a festival wine permit.

237 * * *

238 (12) (a) An individual resident of this state who is at
239 least twenty-one (21) years of age may purchase wine from a winery
240 and have the purchase shipped into this state so long as it is
241 shipped to a package retailer permittee in Mississippi; however,
242 the permittee shall pay to the department all taxes, fees and



243 surcharges on the wine that are imposed upon the sale of wine
244 shipped by the department or its warehouse operator. No credit
245 shall be provided to the permittee for any taxes paid to another
246 state as a result of the transaction. Package retailers may
247 charge a service fee for receiving and handling shipments from
248 wineries on behalf of the purchasers. The department shall
249 develop and provide forms to be completed by the package retailer
250 permittees verifying the transaction. The completed forms shall
251 be forwarded to the department within a period of time prescribed
252 by the department.

253 (b) The purchaser of wine that is to be shipped to a
254 package retailer's store shall be required to get the prior
255 approval of the package retailer before any wine is shipped to the
256 package retailer. A purchaser is limited to no more than ten (10)
257 cases of wine per year to be shipped to a package retailer. A
258 package retailer shall notify a purchaser of wine within two (2)
259 days after receiving the shipment of wine. If the purchaser of
260 the wine does not pick up or take the wine from the package
261 retailer within thirty (30) days after being notified by the
262 package retailer, the package retailer may sell the wine as part
263 of his inventory.

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



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

281 Upon the department's request, any records supporting the
282 report shall be made available to the department within a
283 reasonable time after the department makes a written request for
284 such records. Any records containing information relating to such
285 reports shall be kept and preserved for a period of two (2) years,
286 unless their destruction sooner is authorized, in writing, by the
287 department, and shall be open and available to inspection by the
288 department upon the department's written request. Reports shall
289 also be made available to any law enforcement or regulatory body
290 in the state in which the railroad company, express company,
291 common or contract carrier making the report resides or does
292 business.



293 Any common or contract carrier that willfully fails to make
294 reports, as provided by this section or any of the rules and
295 regulations of the department for the administration and
296 enforcement of this section, is subject to a notification of
297 violation. In the case of a continuing failure to make reports,
298 the common or contract carrier is subject to possible license
299 suspension and revocation at the department's discretion.

300 (d) A winery that ships wine under this section shall
301 be deemed to have consented to the jurisdiction of the courts of
302 this state, of the department, of any other state agency regarding
303 the enforcement of this section, and of any related law, rules or
304 regulations.

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

311 (13) If any provision of this article, or its application to
312 any person or circumstance, is determined by a court to be invalid
313 or unconstitutional, the remaining provisions shall be construed
314 in accordance with the intent of the Legislature to further limit
315 rather than expand commerce in alcoholic beverages to protect the
316 health, safety, and welfare of the state's residents, and to
317 enhance strict regulatory control over taxation, distribution and



318 sale of alcoholic beverages through the three-tier regulatory
319 system imposed by this article upon all alcoholic beverages to
320 curb relationships and practices calculated to stimulate sales and
321 impair the state's policy favoring trade stability and the
322 promotion of temperance.

323 **SECTION 3.** Section 67-1-51, Mississippi Code of 1972, is
324 amended as follows:

325 67-1-51. (1) Permits which may be issued by the department
326 shall be as follows:

327 (a) **Manufacturer's permit.** A manufacturer's permit
328 shall permit the manufacture, importation in bulk, bottling and
329 storage of alcoholic liquor and its distribution and sale to
330 manufacturers holding permits under this article in this state and
331 to persons outside the state who are authorized by law to purchase
332 the same, and to sell as provided by this article.

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

334 Class 1. Distiller's and/or rectifier's permit, which shall
335 authorize the holder thereof to operate a distillery for the
336 production of distilled spirits by distillation or redistillation
337 and/or to operate a rectifying plant for the purifying, refining,
338 mixing, blending, flavoring or reducing in proof of distilled
339 spirits and alcohol.

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



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

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

349 (b) **Package retailer's permit.** Except as otherwise
350 provided in this paragraph and Section 67-1-52, a package
351 retailer's permit shall authorize the holder thereof to operate a
352 store exclusively for the sale at retail in original sealed and
353 unopened packages of alcoholic beverages, including native wines
354 and native spirits, not to be consumed on the premises where sold.
355 Alcoholic beverages shall not be sold by any retailer in any
356 package or container containing less than fifty (50) milliliters
357 by liquid measure. A package retailer's permit, with prior
358 approval from the department, shall authorize the holder thereof
359 to sample new product furnished by a manufacturer's representative
360 or his employees at the permitted place of business so long as the
361 sampling otherwise complies with this article and applicable
362 department regulations. Such samples may not be provided to
363 customers at the permitted place of business. In addition to the
364 sale at retail of packages of alcoholic beverages, the holder of a
365 package retailer's permit is authorized to sell at retail
366 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
367 other beverages commonly used to mix with alcoholic beverages.



368 Nonalcoholic beverages sold by the holder of a package retailer's
369 permit shall not be consumed on the premises where sold.

370 (c) **On-premises retailer's permit.** Except as otherwise
371 provided in subsection (5) of this section, an on-premises
372 retailer's permit shall authorize the sale of alcoholic beverages,
373 including native wines and native spirits, for consumption on the
374 licensed premises only; however, a patron of the permit holder may
375 remove one (1) bottle of wine from the licensed premises if: (i)
376 the patron consumed a portion of the bottle of wine in the course
377 of consuming a meal purchased on the licensed premises; (ii) the
378 permit holder securely reseals the bottle; (iii) the bottle is
379 placed in a bag that is secured in a manner so that it will be
380 visibly apparent if the bag is opened; and (iv) a dated receipt
381 for the wine and the meal is available. Additionally, as part of
382 a carryout order, a permit holder may sell one (1) bottle of wine
383 to be removed from the licensed premises for every two (2) entrees
384 ordered. Such a permit shall be issued only to qualified hotels,
385 restaurants and clubs, small craft breweries, microbreweries, and
386 to common carriers with adequate facilities for serving
387 passengers. In resort areas, whether inside or outside of a
388 municipality, the department, in its discretion, may issue
389 on-premises retailer's permits to such establishments as it deems
390 proper. An on-premises retailer's permit when issued to a common
391 carrier shall authorize the sale and serving of alcoholic
392 beverages aboard any licensed vehicle while moving through any



393 county of the state; however, the sale of such alcoholic beverages
394 shall not be permitted while such vehicle is stopped in a county
395 that has not legalized such sales. If an on-premises retailer's
396 permit is applied for by a common carrier operating solely in the
397 water, such common carrier must, along with all other
398 qualifications for a permit, (i) be certified to carry at least
399 one hundred fifty (150) passengers and/or provide overnight
400 accommodations for at least fifty (50) passengers and (ii) operate
401 primarily in the waters within the State of Mississippi which lie
402 adjacent to the State of Mississippi south of the three (3) most
403 southern counties in the State of Mississippi and/or on the
404 Mississippi River or navigable waters within any county bordering
405 on the Mississippi River.

406 (d) **Solicitor's permit.** A solicitor's permit shall
407 authorize the holder thereof to act as salesman for a manufacturer
408 or wholesaler holding a proper permit, to solicit on behalf of his
409 employer orders for alcoholic beverages, and to otherwise promote
410 his employer's products in a legitimate manner. Such a permit
411 shall authorize the representation of and employment by one (1)
412 principal only. However, the permittee may also, in the
413 discretion of the department, be issued additional permits to
414 represent other principals. No such permittee shall buy or sell
415 alcoholic beverages for his own account, and no such beverage
416 shall be brought into this state in pursuance of the exercise of



417 such permit otherwise than through a permit issued to a wholesaler
418 or manufacturer in the state.

419 (e) **Native wine retailer's permit.** Except as otherwise
420 provided in subsection (5) of this section, a native wine
421 retailer's permit shall be issued only to a holder of a Class 3
422 manufacturer's permit, and shall authorize the holder thereof to
423 make retail sales of native wines to consumers for on-premises
424 consumption or to consumers in originally sealed and unopened
425 containers at an establishment located on the premises of or in
426 the immediate vicinity of a native winery. When selling to
427 consumers for on-premises consumption, a holder of a native wine
428 retailer's permit may add to the native wine alcoholic beverages
429 not produced on the premises, so long as the total volume of
430 foreign beverage components does not exceed twenty percent (20%)
431 of the mixed beverage. Hours of sale shall be the same as those
432 authorized for on-premises permittees in the city or county in
433 which the native wine retailer is located.

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

439 Temporary retailer's permits shall be of the following
440 classes:



441 Class 1. A temporary one-day permit may be issued to bona
442 fide nonprofit civic or charitable organizations authorizing the
443 sale of alcoholic beverages, including native wine and native
444 spirit, for consumption on the premises described in the temporary
445 permit only. Class 1 permits may be issued only to applicants
446 demonstrating to the department, by a statement signed under
447 penalty of perjury submitted ten (10) days prior to the proposed
448 date or such other time as the department may determine, that they
449 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
450 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
451 Class 1 permittees shall obtain all alcoholic beverages from
452 package retailers located in the county in which the temporary
453 permit is issued. Alcoholic beverages remaining in stock upon
454 expiration of the temporary permit may be returned by the
455 permittee to the package retailer for a refund of the purchase
456 price upon consent of the package retailer or may be kept by the
457 permittee exclusively for personal use and consumption, subject to
458 all laws pertaining to the illegal sale and possession of
459 alcoholic beverages. The department, following review of the
460 statement provided by the applicant and the requirements of the
461 applicable statutes and regulations, may issue the permit.

462 Class 2. A temporary permit, not to exceed seventy (70)
463 days, may be issued to prospective permittees seeking to transfer
464 a permit authorized in paragraph (c) of this subsection. A Class
465 2 permit may be issued only to applicants demonstrating to the



466 department, by a statement signed under the penalty of perjury,
467 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
468 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
469 67-1-59. The department, following a preliminary review of the
470 statement provided by the applicant and the requirements of the
471 applicable statutes and regulations, may issue the permit.

472 Class 2 temporary permittees must purchase their alcoholic
473 beverages directly from the department or, with approval of the
474 department, purchase the remaining stock of the previous
475 permittee. If the proposed applicant of a Class 1 or Class 2
476 temporary permit falsifies information contained in the
477 application or statement, the applicant shall never again be
478 eligible for a retail alcohol beverage permit and shall be subject
479 to prosecution for perjury.

480 Class 3. A temporary one-day permit may be issued to a
481 retail establishment authorizing the complimentary distribution of
482 wine, including native wine, to patrons of the retail
483 establishment at an open house or promotional event, for
484 consumption only on the premises described in the temporary
485 permit. A Class 3 permit may be issued only to an applicant
486 demonstrating to the department, by a statement signed under
487 penalty of perjury submitted ten (10) days before the proposed
488 date or such other time as the department may determine, that it
489 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
490 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.



491 A Class 3 permit holder shall obtain all alcoholic beverages from
492 the holder(s) of a package retailer's permit located in the county
493 in which the temporary permit is issued. Wine remaining in stock
494 upon expiration of the temporary permit may be returned by the
495 Class 3 temporary permit holder to the package retailer for a
496 refund of the purchase price, with consent of the package
497 retailer, or may be kept by the Class 3 temporary permit holder
498 exclusively for personal use and consumption, subject to all laws
499 pertaining to the illegal sale and possession of alcoholic
500 beverages. The department, following review of the statement
501 provided by the applicant and the requirements of the applicable
502 statutes and regulations, may issue the permit. No retailer may
503 receive more than twelve (12) Class 3 temporary permits in a
504 calendar year. A Class 3 temporary permit shall not be issued to
505 a retail establishment that either holds a merchant permit issued
506 under paragraph (1) of this subsection, or holds a permit issued
507 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
508 the holder to engage in the business of a retailer of light wine
509 or beer.

510 (g) **Caterer's permit.** A caterer's permit shall permit
511 the purchase of alcoholic beverages by a person engaging in
512 business as a caterer and the resale of alcoholic beverages by
513 such person in conjunction with such catering business. No person
514 shall qualify as a caterer unless forty percent (40%) or more of
515 the revenue derived from such catering business shall be from the



516 serving of prepared food and not from the sale of alcoholic
517 beverages and unless such person has obtained a permit for such
518 business from the Department of Health. A caterer's permit shall
519 not authorize the sale of alcoholic beverages on the premises of
520 the person engaging in business as a caterer; however, the holder
521 of an on-premises retailer's permit may hold a caterer's permit.
522 When the holder of an on-premises retailer's permit or an
523 affiliated entity of the holder also holds a caterer's permit, the
524 caterer's permit shall not authorize the service of alcoholic
525 beverages on a consistent, recurring basis at a separate, fixed
526 location owned or operated by the caterer, on-premises retailer or
527 affiliated entity and an on-premises retailer's permit shall be
528 required for the separate location. All sales of alcoholic
529 beverages by holders of a caterer's permit shall be made at the
530 location being catered by the caterer, and, except as otherwise
531 provided in subsection (5) of this section, such sales may be made
532 only for consumption at the catered location. The location being
533 catered may be anywhere within a county or judicial district that
534 has voted to come out from under the dry laws or in which the sale
535 and distribution of alcoholic beverages is otherwise authorized by
536 law. Such sales shall be made pursuant to any other conditions
537 and restrictions which apply to sales made by on-premises retail
538 permittees. The holder of a caterer's permit or his employees
539 shall remain at the catered location as long as alcoholic
540 beverages are being sold pursuant to the permit issued under this



541 paragraph (g), and the permittee shall have at the location the
542 identification card issued by the Alcoholic Beverage Control
543 Division of the department. No unsold alcoholic beverages may be
544 left at the catered location by the permittee upon the conclusion
545 of his business at that location. Appropriate law enforcement
546 officers and Alcoholic Beverage Control Division personnel may
547 enter a catered location on private property in order to enforce
548 laws governing the sale or serving of alcoholic beverages.

549 (h) **Research permit.** A research permit shall authorize
550 the holder thereof to operate a research facility for the
551 professional research of alcoholic beverages. Such permit shall
552 authorize the holder of the permit to import and purchase limited
553 amounts of alcoholic beverages from the department or from
554 importers, wineries and distillers of alcoholic beverages for
555 professional research.

556 (i) **Alcohol processing permit.** An alcohol processing
557 permit shall authorize the holder thereof to purchase, transport
558 and possess alcoholic beverages for the exclusive use in cooking,
559 processing or manufacturing products which contain alcoholic
560 beverages as an integral ingredient. An alcohol processing permit
561 shall not authorize the sale of alcoholic beverages on the
562 premises of the person engaging in the business of cooking,
563 processing or manufacturing products which contain alcoholic
564 beverages. The amounts of alcoholic beverages allowed under an
565 alcohol processing permit shall be set by the department.



566 (j) **Hospitality cart permit.** A hospitality cart permit
567 shall authorize the sale of alcoholic beverages from a mobile cart
568 on a golf course that is the holder of an on-premises retailer's
569 permit. The alcoholic beverages sold from the cart must be
570 consumed within the boundaries of the golf course.

571 (k) **Special service permit.** A special service permit
572 shall authorize the holder to sell commercially sealed alcoholic
573 beverages to the operator of a commercial or private aircraft for
574 en route consumption only by passengers. A special service permit
575 shall be issued only to a fixed-base operator who contracts with
576 an airport facility to provide fueling and other associated
577 services to commercial and private aircraft.

578 (l) **Merchant permit.** Except as otherwise provided in
579 subsection (5) of this section, a merchant permit shall be issued
580 only to the owner of a spa facility, an art studio or gallery, or
581 a cooking school, and shall authorize the holder to serve
582 complimentary by the glass wine only, including native wine, at
583 the holder's spa facility, art studio or gallery, or cooking
584 school. A merchant permit holder shall obtain all wine from the
585 holder of a package retailer's permit.

586 (m) **Temporary alcoholic beverages charitable auction**
587 **permit.** A temporary permit, not to exceed five (5) days, may be
588 issued to a qualifying charitable nonprofit organization that is
589 exempt from taxation under Section 501(c)(3) or (4) of the
590 Internal Revenue Code of 1986. The permit shall authorize the



591 holder to sell alcoholic beverages for the limited purpose of
592 raising funds for the organization during a live or silent auction
593 that is conducted by the organization and that meets the following
594 requirements: (i) the auction is conducted in an area of the
595 state where the sale of alcoholic beverages is authorized; (ii) if
596 the auction is conducted on the premises of an on-premises
597 retailer's permit holder, then the alcoholic beverages to be
598 auctioned must be stored separately from the alcoholic beverages
599 sold, stored or served on the premises, must be removed from the
600 premises immediately following the auction, and may not be
601 consumed on the premises; (iii) the permit holder may not conduct
602 more than two (2) auctions during a calendar year; (iv) the permit
603 holder may not pay a commission or promotional fee to any person
604 to arrange or conduct the auction.

605 (n) **Event venue retailer's permit.** An event venue
606 retailer's permit shall authorize the holder thereof to purchase
607 and resell alcoholic beverages, including native wines and native
608 spirits, for consumption on the premises during legal hours during
609 events held on the licensed premises if food is being served at
610 the event by a caterer who is not affiliated with or related to
611 the permittee. The caterer must serve at least three (3) entrees.
612 The permit may only be issued for venues that can accommodate two
613 hundred (200) persons or more. The number of persons a venue may
614 accommodate shall be determined by the local fire department and
615 such determination shall be provided in writing and submitted



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

625 (o) **Temporary theatre permit.** A temporary theatre
626 permit, not to exceed five (5) days, may be issued to a charitable
627 nonprofit organization that is exempt from taxation under Section
628 501(c) (3) or (4) of the Internal Revenue Code and owns or operates
629 a theatre facility that features plays and other theatrical
630 performances and productions. Except as otherwise provided in
631 subsection (5) of this section, the permit shall authorize the
632 holder to sell alcoholic beverages, including native wines and
633 native spirits, to patrons of the theatre during performances and
634 productions at the theatre facility for consumption during such
635 performances and productions on the premises of the facility
636 described in the permit. A temporary theatre permit holder shall
637 obtain all alcoholic beverages from package retailers located in
638 the county in which the permit is issued. Alcoholic beverages
639 remaining in stock upon expiration of the temporary theatre permit
640 may be returned by the permittee to the package retailer for a



641 refund of the purchase price upon consent of the package retailer
642 or may be kept by the permittee exclusively for personal use and
643 consumption, subject to all laws pertaining to the illegal sale
644 and possession of alcoholic beverages.

645 (p) **Charter ship operator's permit.** Subject to the
646 provisions of this paragraph (p), a charter ship operator's permit
647 shall authorize the holder thereof and its employees to serve,
648 monitor, store and otherwise control the serving and availability
649 of alcoholic beverages to customers of the permit holder during
650 private charters under contract provided by the permit holder. A
651 charter ship operator's permit shall authorize such action by the
652 permit holder and its employees only as to alcoholic beverages
653 brought onto the permit holder's ship by customers of the permit
654 holder as part of such a private charter. All such alcoholic
655 beverages must be removed from the charter ship at the conclusion
656 of each private charter. A charter ship operator's permit shall
657 not authorize the permit holder to sell, charge for or otherwise
658 supply alcoholic beverages to customers, except as authorized in
659 this paragraph (p). For the purposes of this paragraph (p),
660 "charter ship operator" means a common carrier that (i) is
661 certified to carry at least one hundred fifty (150) passengers
662 and/or provide overnight accommodations for at least fifty (50)
663 passengers, (ii) operates only in the waters within the State of
664 Mississippi, which lie adjacent to the State of Mississippi south
665 of the three (3) most southern counties in the State of



666 Mississippi, and (iii) provides charters under contract for tours
667 and trips in such waters.

668 (q) **Distillery retailer's permit.** The holder of a
669 Class 1 manufacturer's permit may obtain a distillery retailer's
670 permit. A distillery retailer's permit shall authorize the holder
671 thereof to sell at retail alcoholic beverages to consumers for
672 on-premises consumption, or to consumers by the sealed and
673 unopened bottle from a retail location at the distillery for
674 off-premises consumption. The holder may only sell product
675 manufactured by the manufacturer at the distillery described in
676 the permit. However, when selling to consumers for on-premises
677 consumption, a holder of a distillery retailer's permit may add
678 other beverages, alcoholic or not, so long as the total volume of
679 other beverage components containing alcohol does not exceed
680 twenty percent (20%). Hours of sale shall be the same as those
681 authorized for on-premises permittees in the city or county in
682 which the distillery retailer is located.

683 The holder shall not sell at retail more than ten percent
684 (10%) of the alcoholic beverages produced annually at its
685 distillery. The holder shall not make retail sales of more than
686 two and twenty-five one-hundredths (2.25) liters, in the
687 aggregate, of the alcoholic beverages produced at its distillery
688 to any one (1) individual for consumption off the premises of the
689 distillery within a twenty-four-hour period. The hours of sale
690 shall be the same as those hours for package retailers under this



691 article. The holder of a distillery retailer's permit is not
692 required to purchase the alcoholic beverages authorized to be sold
693 by this paragraph from the department's liquor distribution
694 warehouse; however, if the holder does not purchase the alcoholic
695 beverages from the department's liquor distribution warehouse, the
696 holder shall pay to the department all taxes, fees and surcharges
697 on the alcoholic beverages that are imposed upon the sale of
698 alcoholic beverages shipped by the department or its warehouse
699 operator. In addition to alcoholic beverages, the holder of a
700 distillery retailer's permit may sell at retail promotional
701 products from the same retail location, including shirts, hats,
702 glasses, and other promotional products customarily sold by
703 alcoholic beverage manufacturers.

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

711 "Festival" means any event at which three (3) or more vendors are
712 present at a location for the sale or distribution of goods. The
713 holder of a Festival Wine Permit is not required to purchase the
714 alcoholic beverages authorized to be sold by this paragraph from
715 the department's liquor distribution warehouse. However, if the



716 holder does not purchase the alcoholic beverages from the
717 department's liquor distribution warehouse, the holder of this
718 permit shall pay to the department all taxes, fees and surcharges
719 on the alcoholic beverages sold at such festivals that are imposed
720 upon the sale of alcoholic beverages shipped by the Alcoholic
721 Beverage Control Division of the Department of Revenue.
722 Additionally, the entity shall file all applicable reports and
723 returns as prescribed by the department. This permit is issued
724 per festival and provides authority to sell for two (2)
725 consecutive days during the hours authorized for on-premises
726 permittees' sales in that county or city. The holder of the
727 permit shall be required to maintain all requirements set by Local
728 Option Law for the service and sale of alcoholic beverages. This
729 permit may be issued to entities participating in festivals at
730 which a Class 1 temporary permit is in effect.

731 * * *

732 (s) **Charter vessel operator's permit.** Subject to the
733 provisions of this paragraph (s), a charter vessel operator's
734 permit shall authorize the holder thereof and its employees to
735 sell and serve alcoholic beverages to passengers of the permit
736 holder during public tours, historical tours, ecological tours and
737 sunset cruises provided by the permit holder. The permit shall
738 authorize the holder to only sell alcoholic beverages, including
739 native wines, to passengers of the charter vessel operator during
740 public tours, historical tours, ecological tours and sunset



741 cruises provided by the permit holder aboard the charter vessel
742 operator for consumption during such tours and cruises on the
743 premises of the charter vessel operator described in the permit.
744 For the purposes of this paragraph (s), "charter vessel operator"
745 means a common carrier that (i) is certified to carry at least
746 forty-nine (49) passengers, (ii) operates only in the waters
747 within the State of Mississippi, which lie south of Interstate 10
748 in the three (3) most southern counties in the State of
749 Mississippi, and lie adjacent to the State of Mississippi south of
750 the three (3) most southern counties in the State of Mississippi,
751 extending not further than one (1) mile south of such counties,
752 and (iii) provides vessel services for tours and cruises in such
753 waters as provided in this paragraph (s).

754 (t) **Native spirit retailer's permit.** Except as
755 otherwise provided in subsection (5) of this section, a native
756 spirit retailer's permit shall be issued only to a holder of a
757 Class 4 manufacturer's permit, and shall authorize the holder
758 thereof to make retail sales of native spirits to consumers for
759 on-premises consumption or to consumers in originally sealed and
760 unopened containers at an establishment located on the premises of
761 or in the immediate vicinity of a native distillery. When selling
762 to consumers for on-premises consumption, a holder of a native
763 spirit retailer's permit may add to the native spirit alcoholic
764 beverages not produced on the premises, so long as the total
765 volume of foreign beverage components does not exceed twenty



766 percent (20%) of the mixed beverage. Hours of sale shall be the
767 same as those authorized for on-premises permittees in the city or
768 county in which the native spirit retailer is located.

769 (u) **Delivery service permit.** Any individual, limited
770 liability company, corporation or partnership registered to do
771 business in this state is eligible to obtain a delivery service
772 permit. Subject to the provisions of Section 67-1-51.1, this
773 permit authorizes the permittee, or its employee or an independent
774 contractor acting on its behalf, to deliver alcoholic beverages,
775 beer, light wine and light spirit product from a licensed retailer
776 to a person in this state who is at least twenty-one (21) years of
777 age for the individual's use and not for resale. This permit does
778 not authorize the delivery of alcoholic beverages, beer, light
779 wine or light spirit product to the premises of a location with a
780 permit for the manufacture, distribution or retail sale of
781 alcoholic beverages, beer, light wine or light spirit product.
782 The holder of a package retailer's permit or an on-premises
783 retailer's permit under Section 67-1-51 or of a beer, light wine
784 and light spirit product permit under Section 67-3-19 is
785 authorized to apply for a delivery service permit as a privilege
786 separate from its existing retail permit.

787 (v) **Food truck permit.** A food truck permit shall
788 authorize the holder of an on-premises retailer's permit to use a
789 food truck to sell alcoholic beverages off its premises to guests
790 who must consume the beverages in open containers. For the



791 purposes of this paragraph (v), "food truck" means a fully encased
792 food service establishment on a motor vehicle or on a trailer that
793 a motor vehicle pulls to transport, and from which a vendor,
794 standing within the frame of the establishment, prepares, cooks,
795 sells and serves food for immediate human consumption. The term
796 "food truck" does not include a food cart that is not motorized.
797 Food trucks shall maintain such distance requirements from
798 schools, churches, kindergartens and funeral homes as are required
799 for on-premises retailer's permittees under this article, and all
800 sales must be made within a valid leisure and recreation district
801 established under Section 67-1-101. Food trucks cannot sell or
802 serve alcoholic beverages unless also offering food prepared and
803 cooked within the food truck, and permittees must maintain a
804 twenty-five percent (25%) food sale revenue requirement based on
805 the food sold from the food truck alone. The hours allowed for
806 sale shall be the same as those for on-premises retailer's
807 permittees in the location. This permit will not be required for
808 the holder of a caterer's permit issued under this article to
809 cater an event as allowed by law. Permittees must provide notice
810 of not less than forty-eight (48) hours to the department of each
811 location at which alcoholic beverages will be sold.

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



815 (3) (a) Except as otherwise provided in this subsection, no
816 authority shall be granted to any person to manufacture, sell or
817 store for sale any intoxicating liquor as specified in this
818 article within four hundred (400) feet of any church, school,
819 kindergarten or funeral home. However, within an area zoned
820 commercial or business, such minimum distance shall be not less
821 than one hundred (100) feet.

822 (b) A church or funeral home may waive the distance
823 restrictions imposed in this subsection in favor of allowing
824 issuance by the department of a permit, pursuant to subsection (1)
825 of this section, to authorize activity relating to the
826 manufacturing, sale or storage of alcoholic beverages which would
827 otherwise be prohibited under the minimum distance criterion.
828 Such waiver shall be in written form from the owner, the governing
829 body, or the appropriate officer of the church or funeral home
830 having the authority to execute such a waiver, and the waiver
831 shall be filed with and verified by the department before becoming
832 effective.

833 (c) The distance restrictions imposed in this
834 subsection shall not apply to the sale or storage of alcoholic
835 beverages at a bed and breakfast inn listed in the National
836 Register of Historic Places or to the sale or storage of alcoholic
837 beverages in a historic district that is listed in the National
838 Register of Historic Places, is a qualified resort area and is
839 located in a municipality having a population greater than one



840 hundred thousand (100,000) according to the latest federal
841 decennial census.

842 (d) The distance restrictions imposed in this
843 subsection shall not apply to the sale or storage of alcoholic
844 beverages at a qualified resort area as defined in Section
845 67-1-5(o)(iii)32.

846 (e) The distance restrictions imposed in this
847 subsection shall not apply to the sale or storage of alcoholic
848 beverages at a licensed premises in a building formerly owned by a
849 municipality and formerly leased by the municipality to a
850 municipal school district and used by the municipal school
851 district as a district bus shop facility.

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

858 (g) The distance restrictions imposed in this
859 subsection shall not apply to the sale or storage of alcoholic
860 beverages at a licensed premises in a building located at or near
861 the intersection of Ward and Tate Streets and adjacent properties
862 in the City of Senatobia, Mississippi.

863 (h) The distance restrictions imposed in this
864 subsection shall not apply to the sale or storage of alcoholic



865 beverages at a theatre facility that features plays and other
866 theatrical performances and productions and (i) is capable of
867 seating more than seven hundred fifty (750) people, (ii) is owned
868 by a municipality which has a population greater than ten thousand
869 (10,000) according to the latest federal decennial census, (iii)
870 was constructed prior to 1930, (iv) is on the National Register of
871 Historic Places, and (v) is located in a historic district.

872 (4) No person, either individually or as a member of a firm,
873 partnership, limited liability company or association, or as a
874 stockholder, officer or director in a corporation, shall own or
875 control any interest in more than one (1) package retailer's
876 permit, nor shall such person's spouse, if living in the same
877 household of such person, any relative of such person, if living
878 in the same household of such person, or any other person living
879 in the same household with such person own any interest in any
880 other package retailer's permit.

881 (5) (a) In addition to any other authority granted under
882 this section, the holder of a permit issued under subsection
883 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
884 sell or otherwise provide alcoholic beverages and/or wine to a
885 patron of the permit holder in the manner authorized in the permit
886 and the patron may remove an open glass, cup or other container of
887 the alcoholic beverage and/or wine from the licensed premises and
888 may possess and consume the alcoholic beverage or wine outside of
889 the licensed premises if: (i) the licensed premises is located



890 within a leisure and recreation district created under Section
891 67-1-101 and (ii) the patron remains within the boundaries of the
892 leisure and recreation district while in possession of the
893 alcoholic beverage or wine.

894 (b) Nothing in this subsection shall be construed to
895 allow a person to bring any alcoholic beverages into a permitted
896 premises except to the extent otherwise authorized by this
897 article.

898 **SECTION 4.** Section 67-1-77, Mississippi Code of 1972, is
899 amended as follows:

900 67-1-77. (1) It shall be unlawful for the holder of a
901 manufacturer's or wholesaler's permit, or anyone connected with
902 the business of such holder, or for any other distiller, wine
903 manufacturer, rectifier, blender or bottler, to have any financial
904 interest in any premises upon which any alcoholic beverage is sold
905 at retail by any permittee, or in the business conducted by such
906 permittee, except that:

907 (a) The holder of a manufacturer's or wholesaler's
908 permit may contract for the service of a representative in the
909 area of governmental affairs on a part-time basis with a holder of
910 an on-premises permit.

911 (b) A distiller, wine manufacturer, rectifier, blender
912 or bottler may have a financial interest in a premises upon which
913 alcoholic beverages are sold at retail by a permittee, or in the
914 business conducted by a permittee, if the permittee does not sell



915 or serve any alcoholic beverages that are distilled, manufactured,
916 rectified, blended or bottled by the distiller, wine manufacturer,
917 rectifier, blender or bottler having the financial interest in the
918 premises or in the business conducted by a permittee.

919 (c) * * * A distiller, wine manufacturer, rectifier,
920 blender or bottler may have a financial interest in and possess a
921 distillery retailer's permit and a wine festival permit.

922 * * *

923 (d) The holder of a manufacturer's permit which is
924 located adjacent to the Mississippi Museum of Art and is bordered
925 by Court Street, Farish Street, South Street and Town Creek may
926 have a financial interest in a premises upon which alcoholic
927 beverages are sold at retail.

928 (2) It shall also be unlawful for any such person, or anyone
929 connected with his, its, or their business to lend any money or
930 make any gift or offer any gratuity, to any retail permittee,
931 except as authorized by regulations of the commission, to the
932 holder of any retail permit issued under the provisions of this
933 article. Except as above provided, no retail permittee shall
934 accept, receive, or make use of any money or gift furnished by any
935 such person, or become indebted to such person except for the
936 purchase of alcoholic beverages.

937 (3) The commission shall not prohibit the furnishing of
938 advertising specialties, printed materials, or other things having
939 nominal value to a retail permittee. This section shall not be



940 construed to prohibit the possession by any person of advertising
941 specialties, printed materials, or other things having nominal
942 value furnished by a retail permittee.

943 (4) Any person violating the provisions of this section
944 shall, upon conviction, be punished by a fine of not more than
945 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
946 than two (2) years, or by both such fine and imprisonment, in the
947 discretion of the court.

948 **SECTION 5.** This act shall take effect and be in force from
949 and after June 30, 2023.

