

By: Senator(s) Parks

To: Finance

SENATE BILL NO. 2822

1 AN ACT TO LIMIT THE FELONY CONVICTIONS THAT DISQUALIFY AN
2 APPLICANT FROM HAVING AN ALCOHOLIC BEVERAGE, BEER, LIGHT WINE OR
3 LIGHT SPIRIT PRODUCT PERMIT ISSUED OR RENEWED TO CONVICTIONS
4 INVOLVING CRIMES DIRECTLY RELATING TO THE BUSINESS OF
5 MANUFACTURING, DISTRIBUTING, SELLING, SHIPPING, DELIVERING OR
6 OTHERWISE PROVIDING ALCOHOLIC BEVERAGES, BEER, LIGHT WINE OR LIGHT
7 SPIRIT PRODUCTS; TO PROVIDE PROCEDURES AND STANDARDS FOR THE
8 DEPARTMENT OF REVENUE TO FOLLOW IN THE DETERMINATION OF WHETHER TO
9 DENY OR REFUSE TO RENEW A PERMIT ON THE BASIS OF A PRIOR CRIMINAL
10 CONVICTION; TO AMEND SECTIONS 67-1-51.1, 67-1-57 AND 67-3-19,
11 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) (a) Unless prohibited by federal law, the
14 department shall not deny an application for an alcoholic beverage
15 permit under this chapter, or for a beer, light wine or light
16 spirit product permit under Chapter 3 of this title, or refuse to
17 renew such permit due to a prior criminal conviction that does not
18 directly relate to the business of manufacturing, distributing,
19 selling, shipping, delivering or otherwise providing alcoholic
20 beverages or beer, light wine or light spirit products.

21 (b) Before denying or refusing to renew a permit on the
22 basis of a criminal conviction, the department shall notify the



23 applicant of the department's determination in writing via
24 certified mail, facsimile transmission or email. The written
25 notification shall include the department's justification for
26 denial or refusal to renew in accordance with paragraph (d) of
27 this subsection. The determination must state the earliest date
28 on which the applicant will be eligible to reapply for the permit.

29 (c) Before submitting the application necessary to
30 obtain or renew a permit, an individual or entity may request
31 written notice from the department concerning the individual's or
32 entity's qualification to obtain the permit based on the criminal
33 history of the individual or, if a partnership, each of the
34 members of the partnership, or, if a corporation, each of its
35 principal officers and directors, or, if a limited liability
36 company, each member of the limited liability company. If the
37 department determines that an individual or entity is disqualified
38 due to criminal history, the department must provide a written
39 notification that sets forth the reasons for its determination and
40 its justification in accordance with paragraph (d) of this
41 subsection. The written notice as to qualifications to obtain a
42 permit must be limited to criminal history and should not be
43 construed as prohibiting the department from denying an
44 application on other grounds. This determination shall apply
45 exclusively to the individual or entity and shall not be construed
46 as an advisory or formal opinion of the department.



47 (d) In considering whether to deny or refuse to renew a
48 permit on the basis of a criminal conviction, the department must
49 consider:

50 (i) The relationship between the nature of the
51 crime and the purposes of regulating the business of
52 manufacturing, distributing, selling, shipping, delivering or
53 otherwise providing alcoholic beverages or beer, light wine or
54 light spirit products;

55 (ii) The relationship between the crime and the
56 ability, capacity and fitness required to perform the duties and
57 discharge the responsibilities of the business of manufacturing,
58 distributing, selling, shipping, delivering or otherwise providing
59 alcoholic beverages or beer, light wine or light spirit products;

60 (iii) Any evidence of rehabilitation or treatment
61 undertaken by the individual that might mitigate against the
62 relationship of crime to the business of manufacturing,
63 distributing, selling, shipping, delivering or otherwise providing
64 alcoholic beverages or beer, light wine or light spirit products;
65 and

66 (iv) Any applicable federal laws regarding an
67 individual's participation in the business of manufacturing,
68 distributing, selling, shipping, delivering or otherwise providing
69 alcoholic beverages or beer, light wine or light spirit products.

70 (2) An individual or entity receiving written notice under
71 subsection (1) (b) or (c) may file a petition within thirty (30)



72 business days of the receipt of the notice in Hinds County
73 Chancery Court. The department must demonstrate by a
74 preponderance of the evidence that the conviction is related to
75 the business of manufacturing, distributing, selling, shipping,
76 delivering or otherwise providing alcoholic beverages or beer,
77 light wine or light spirit products.

78 (3) Nothing in this section shall be construed to prohibit
79 the department from issuing a conditional permit under Section
80 67-3-29 or other applicable law.

81 (4) Nothing in this section shall be construed to create a
82 separate right to a contested case hearing that does not otherwise
83 exist under the law relative to the denial of a permit.

84 (5) If a prior conviction serves as a basis for the
85 department's consideration, notice or decision under this section,
86 such consideration, notice or decision shall not use a vague term,
87 such as "good moral character" or "character and fitness," in
88 reference to that conviction, without also providing an
89 explanation of how the conviction directly relates to the business
90 of manufacturing, distributing, selling, shipping, delivering or
91 otherwise providing alcoholic beverages or beer, light wine or
92 light spirit products.

93 **SECTION 2.** Section 67-1-51.1, Mississippi Code of 1972, is
94 amended as follows:

95 67-1-51.1. (1) The holder of a delivery service permit
96 under Section 67-1-51:



97 (a) May contract with the holder of a package
98 retailer's permit or an on-premises retailer's permit under
99 Section 67-1-51 or the holder of a beer, light wine and light
100 spirit product retail permit under Section 67-3-19 for the purpose
101 of intrastate delivery of alcoholic beverages or beer, light wine
102 and light spirit product, as authorized to be sold under the
103 respective permits;

104 (b) May deliver alcoholic beverages or beer, light wine
105 and light spirit product without a delivery contract, if the
106 permittee holds a package retailer's permit or an on-premises
107 retailer's permit under Section 67-1-51 or a beer, light wine and
108 light spirit product retail permit under Section 67-3-19,
109 respectively;

110 (c) May use its own employees or independent
111 contractors who are at least twenty-one (21) years of age to
112 deliver such alcoholic beverages, beer, light wine or light spirit
113 product under this section, provided all delivery agents are
114 trained and certified consistent with the training program
115 submitted to the division as required by subsection (2) (d) of this
116 section. If independent contractors are used, the delivery
117 service permittee must enter into a contract with the retailer as
118 required by subsection (2) (c) of this section;

119 (d) May facilitate orders by telephone, internet or
120 other electronic means for the sale and delivery of alcoholic
121 beverages, beer, light wine or light spirit product under this



122 section. The full amount of each order must be handled in a
123 manner that gives the retail permittee control over the ultimate
124 receipt of payment from the consumer. The retail permittee shall
125 remain responsible for the proper remittance of all applicable
126 taxes on the sale of the product;

127 (e) May deliver only sealed containers of alcoholic
128 beverages, beer, light wine or light spirit product to an
129 individual in Mississippi;

130 (f) Shall obtain from the customer a confirmation that
131 he or she is at least twenty-one (21) years of age at the time the
132 order is placed;

133 (g) Shall place a stamp, print or label on the outside
134 of the sealed package to indicate that the sealed package contains
135 alcoholic beverages, beer, light wine or light spirit product;

136 (h) Shall require the recipient, at the time of
137 delivery, to provide valid photo identification verifying he or
138 she is at least twenty-one (21) years of age and to sign for the
139 delivery;

140 (i) Shall possess identification scanning software
141 technology or a state-of-the-art alternative at the point of
142 delivery to verify the recipient is at least twenty-one (21) years
143 of age and to collect the recipient's name and date of birth.
144 Records relating to this verification shall be maintained for at
145 least ninety (90) days and shall be subject to review by the
146 division;



147 (j) Shall return all alcoholic beverages, beer, light
148 wine or light spirit product to the retailer if the recipient is
149 under the age of twenty-one (21) years, appears intoxicated, fails
150 to provide proof of identification, fails or refuses to sign for
151 delivery, fails to complete the identification verification
152 process or declines to accept delivery, or if any circumstances in
153 the delivery environment indicate illegal conduct, overconsumption
154 of alcohol, or an otherwise unsafe environment for the consumption
155 of alcohol;

156 (k) May not deliver any alcoholic beverage, beer, light
157 wine or light spirit product to any person located within a
158 jurisdiction that is dry for that product, as provided by the
159 division's wet-dry map;

160 (l) May not deliver any alcoholic beverage, beer, light
161 wine or light spirit product in a jurisdiction during times
162 prohibited for lawful sale in that jurisdiction;

163 (m) May not deliver any alcoholic beverage, beer, light
164 wine or light spirit product more than thirty (30) miles from the
165 retailer's licensed premises;

166 (n) Shall permit the division to perform an audit of
167 the licensee's records upon request and with sufficient
168 notification; and

169 (o) Shall be deemed to have consented to the
170 jurisdiction of the division or any law enforcement agency and the



Mississippi courts concerning enforcement of this section and any related laws or rules.

(2) In order to receive a delivery service permit, an applicant shall:

(a) File an application with the division;

(b) Pay the privilege license tax of Five Hundred Dollars (\$500.00) as provided in Section 27-71-5;

(c) Provide to the division a sample contract that the applicant intends to enter into with a retailer for the delivery of alcoholic beverages, beer, light wine or light spirit product, unless the applicant is the retailer;

(d) Submit to the division an outline of an internal or external training and certification program for delivery service personnel that addresses topics such as identifying underage persons, intoxicated persons, and fake or altered identification;

(e) Provide an attestation that the applicant is at least twenty-one (21) years of age and has not been convicted of a felony, in any state or federal courts, directly relating to the business of manufacturing, distributing, selling, shipping, delivering or otherwise providing alcoholic beverages or beer, light wine or light spirit products, as those terms are defined in Section 67-3-3;

(f) Shall provide proof of a general liability insurance policy in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence; and



196 (g) Shall be properly registered to conduct business in
197 Mississippi.

198 (3) Nothing in this section shall be construed to require a
199 technology services company to obtain a delivery service permit if
200 the company does not employ or contract with delivery agents but
201 merely provides software or a digital network application that
202 connects consumers and licensed retailers for the delivery of
203 alcoholic beverages from the licensed retailer. However, the act
204 of connecting consumers to licensed retailers shall serve to grant
205 jurisdiction to the State of Mississippi.

206 (4) The division may enforce the requirements of this
207 section by the same administrative proceedings that apply to other
208 alcoholic beverage licenses or permits, including, without
209 limitation, any disciplinary action applicable to the package
210 retailer's permittee, on-premises retailer's permittee, retail
211 permittee for beer, light wine or light spirit product, or
212 delivery service permittee resulting from any unlawful sale to a
213 minor.

214 (5) The division may enforce the requirements of this
215 section against the package retailer's permittee, on-premises
216 retailer's permittee, retail permittee for beer, light wine or
217 light spirit product, or delivery service permittee, and any
218 employee or independent contractor of such permittee. If a
219 package retailer permittee, an on-premises retailer's permittee,
220 or a retail permittee for beer, light wine or light spirit product



is also a delivery permittee, a violation of alcohol law by its employee or independent contractor during delivery will subject both the retailer permit and the delivery service permit to disciplinary action for the violation. Delivery to a minor shall be treated as furnishing to a minor and shall result in any applicable disciplinary action.

(6) Nothing in this section shall be construed to limit or otherwise diminish the ability of the division to enforce the provisions of Chapters 1 and 3, Title 67, Mississippi Code of 1972, with respect to the liability of any package retailer's permittee, on-premises retailer's permittee, retail permittee for beer, light wine or light spirit product, or delivery service permittee engaging in delivery activity authorized by this section.

(7) Nothing in this section shall be construed to authorize the direct shipment of alcoholic beverages, light wine, beer or light spirit product from any manufacturer or distributor holding a permit under this article, or under Title 67, Chapter 3, Mississippi Code of 1972, to consumers in this state.

SECTION 3. Section 67-1-57, Mississippi Code of 1972, is amended as follows:

67-1-57. Before a permit is issued the department shall satisfy itself:

(a) That the applicant, if an individual, or if a partnership, each of the members of the partnership, or if a



246 corporation, each of its principal officers and directors, or if a
247 limited liability company, each member of the limited liability
248 company, is of good moral character and, in addition, enjoys a
249 reputation of being a peaceable, law-abiding citizen of the
250 community in which he resides, and is generally fit for the trust
251 to be reposed in him, is not less than twenty-one (21) years of
252 age, and has not been convicted of a felony, in any state or
253 federal court, directly relating to the business of manufacturing,
254 distributing, selling, shipping, delivering or otherwise providing
255 alcoholic beverages or beer, light wine or light spirit products,
256 as those terms are defined in Section 67-3-3.

257 (b) That, except in the case of an application for a
258 solicitor's permit, the applicant is the true and actual owner of
259 the business for which the permit is desired, and that he intends
260 to carry on the business authorized for himself and not as the
261 agent of any other person, and that he intends to superintend in
262 person the management of the business or that he will designate a
263 manager to manage the business for him. All managers must be
264 approved by the department prior to completing any managerial
265 tasks on behalf of the permittee and must possess all of the
266 qualifications required of a permittee; however, a felony
267 conviction, other than a crime of violence, does not automatically
268 disqualify a person from being approved as a manager if the person
269 was released from incarceration at least three (3) years prior to
270 application for approval as a manager. A felony conviction, other



271 than a crime of violence, may be considered by the department in
272 determining whether all other qualifications are met.

273 (c) That the applicant for a package retailer's permit,
274 if an individual, is a resident of the State of Mississippi. If
275 the applicant is a partnership, each member of the partnership
276 must be a resident of the state. If the applicant is a limited
277 liability company, each member of the limited liability company
278 must be a resident of the state. If the applicant is a
279 corporation, the designated manager of the corporation must be a
280 resident of the state.

281 (d) That the place for which the permit is to be issued
282 is an appropriate one considering the character of the premises
283 and the surrounding neighborhood.

284 (e) That the place for which the permit is to be issued
285 is within the corporate limits of an incorporated municipality or
286 qualified resort area or club which comes within the provisions of
287 this article.

288 (f) That the applicant is not indebted to the state for
289 any taxes, fees or payment of penalties imposed by any law of the
290 State of Mississippi or by any rule or regulation of the
291 commission.

292 (g) That the applicant is not in the habit of using
293 alcoholic beverages to excess and is not physically or mentally
294 incapacitated, and that the applicant has the ability to read and
295 write the English language.



296 (h) That the commission does not believe and has no
297 reason to believe that the applicant will sell or knowingly permit
298 any agent, servant or employee to unlawfully sell liquor in a dry
299 area or in any other manner contrary to law.

300 (i) That the applicant is not residentially domiciled
301 with any person whose permit or license has been cancelled for
302 cause within the twelve (12) months next preceding the date of the
303 present application for a permit.

304 (j) That the commission has not, in the exercise of its
305 discretion which is reserved and preserved to it, refused to grant
306 permits under the restrictions of this section, as well as under
307 any other pertinent provision of this article.

308 (k) That there are not sufficient legal reasons to deny
309 a permit on the ground that the premises for which the permit is
310 sought has previously been operated, used or frequented for any
311 purpose or in any manner that is lewd, immoral or offensive to
312 public decency. In the granting or withholding of any permit to
313 sell alcoholic beverages at retail, the commission in forming its
314 conclusions may give consideration to any recommendations made in
315 writing by the district or county attorney or county, circuit or
316 chancery judge of the county, or the sheriff of the county, or the
317 mayor or chief of police of an incorporated city or town wherein
318 the applicant proposes to conduct his business and to any
319 recommendations made by representatives of the commission.



(1) That the applicant and the applicant's key employees, as determined by the commission, do not have a disqualifying criminal record. In order to obtain a criminal record history check, the applicant shall submit to the commission a set of fingerprints from any local law enforcement agency for each person for whom the records check is required. The commission shall forward the fingerprints to the Mississippi Department of Public Safety. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Costs for processing the set or sets of fingerprints shall be borne by the applicant. The commission shall not deny employment to an employee of the applicant prior to the identification of a disqualifying record or other disqualifying information.

SECTION 4. Section 67-3-19, Mississippi Code of 1972, is amended as follows:

67-3-19. Where application is made for a permit to engage in the business of a retailer of light wine, light spirit product or beer, the applicant shall show in his application that he possesses the following qualifications:

(a) Applicant must be a person at least twenty-one (21) years of age, of good moral character and a resident of the State of Mississippi.



(b) Applicant shall not have been convicted of a felony directly relating to the business of manufacturing, distributing, selling, shipping, delivering or otherwise providing alcoholic beverages, as defined in Section 67-1-5, or beer, light wine or light spirit products, or of pandering or of keeping or maintaining a house of prostitution, or have been convicted within two (2) years of the date of his application of any violation of the laws of this state or the laws of the United States relating to alcoholic liquor.

(c) Applicant shall not have had revoked, except for a violation of Section 67-3-52, within two (2) years next preceding his application, any license or permit issued to him pursuant to the laws of this state, or any other state, to sell alcoholic liquor of any kind.

(d) Applicant shall be the owner of the premises for which the permit is sought or the holder of an existing lease thereon.

(e) Applicant shall not be residentially domiciled with any person whose permit has been revoked for cause, except for a violation of Section 67-3-52, within two (2) years next preceding the date of the present application for a permit.

(f) The applicant has not had any license or permit to sell beer, light spirit product or light wine at retail revoked, within five (5) years next preceding his application, due to a violation of Section 67-3-52.



369 (g) Applicant shall not employ any person whose permit
370 has been revoked when such person owned or operated the business
371 on the premises for which a permit is sought or allow such person
372 to have any financial interest in the business of the applicant,
373 until such person is qualified to obtain a permit in his own name.

374 (h) The applicant is not indebted to the State of
375 Mississippi for any taxes.

376 (i) If applicant is a partnership, all members of the
377 partnership must be qualified to obtain a permit. Each member of
378 the partnership must be a resident of the State of Mississippi.

379 (j) If applicant is a corporation, all officers and
380 directors thereof, and any stockholder owning more than five
381 percent (5%) of the stock of such corporation, and the person or
382 persons who shall conduct and manage the licensed premises for the
383 corporation shall possess all the qualifications required herein
384 for any individual permittee. However, the requirements as to
385 residence shall not apply to officers, directors and stockholders
386 of such corporation.

387 Any misstatement or concealment of fact in an application
388 shall be grounds for denial of the application or for revocation
389 of the permit issued thereon.

390 The commissioner may refuse to issue a permit to an applicant
391 for a place that is frequented by known criminals, prostitutes, or
392 other law violators or troublemakers who disturb the peace and
393 quietude of the community and frequently require the assistance of



394 peace officers to apprehend such law violators or to restore
395 order. The burden of proof of establishing the foregoing shall
396 rest upon the commissioner.

397 **SECTION 5.** Section 1 of this act shall be codified in Title
398 67, Chapter 1, Mississippi Code of 1972.

399 **SECTION 6.** This act shall take effect and be in force from
400 and after July 1, 2025.

