

By: Guice

To: Ways and Means

## HOUSE BILL NO. 1394

1 AN ACT TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-11,  
2 27-71-15, 27-71-21, 27-71-201, 67-1-5, 67-1-9, 67-1-37, 67-1-41,  
3 67-1-43, 67-1-45, 67-1-51 AND 67-1-77, MISSISSIPPI CODE OF 1972,  
4 TO AUTHORIZE THE DISTRIBUTION OF WINE BY PRIVATE ENTITIES; TO  
5 PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR A WINE DISTRIBUTOR'S  
6 PERMIT; TO PROVIDE FOR AN EXCISE TAX ON WINE SOLD BY THE HOLDER OF  
7 A WINE DISTRIBUTOR'S PERMIT AND THE COLLECTION OF SUCH TAX; TO  
8 REQUIRE THE OPERATOR OF A VEHICLE TRANSPORTING WINE TO POSSESS AN  
9 INVOICE ISSUED BY THE HOLDER OF A WINE DISTRIBUTOR'S PERMIT; TO  
10 PROVIDE THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING WINE  
11 MAY BE REQUIRED TO ENTER INTO A BOND PAYABLE TO THE STATE OF  
12 MISSISSIPPI CONDITIONED THAT SUCH DISTRIBUTOR WILL CONDUCT HIS  
13 BUSINESS LAWFULLY; TO AUTHORIZE THE STATE TAX COMMISSION TO  
14 PROMULGATE RULES AND REGULATIONS GOVERNING THE PURCHASE FOR  
15 RESALE, DISTRIBUTION AND SALE OF WINE; TO PROVIDE THAT THE STATE  
16 TAX COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR OF WINE; TO  
17 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE WINE DISTRIBUTOR'S  
18 PERMITS; TO PROVIDE THAT SUCH PERMITS SHALL AUTHORIZE THE HOLDER  
19 THEREOF TO PURCHASE WINE FROM ANY MANUFACTURER OR IMPORTER,  
20 TRANSPORT WINE INTO THE STATE OF MISSISSIPPI, STORE WINE AT THE  
21 PRIVATE BONDED WAREHOUSE OF SUCH PERMITTEE'S CHOICE AND SOLICIT  
22 ORDERS FROM AND SELL WINE TO PERMITTEES WHO ARE AUTHORIZED TO SELL  
23 WINE AT RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE KEPT FOR  
24 THREE YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE ALCOHOLIC  
25 BEVERAGE CONTROL DIVISION AT ANY TIME; TO REQUIRE THE HOLDER OF A  
26 WINE DISTRIBUTOR'S PERMIT TO DELIVER WINE WITHIN THREE DAYS OF  
27 RECEIPT OF THE ORDER; TO MAKE IT UNLAWFUL FOR A WINE DISTRIBUTOR  
28 TO HAVE A FINANCIAL INTEREST IN ANY PREMISES UPON WHICH ANY  
29 ALCOHOLIC BEVERAGE IS SOLD AT RETAIL; AND FOR RELATED PURPOSES.

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

31 SECTION 1. Section 27-71-5, Mississippi Code of 1972, is  
32 amended as follows:

33 27-71-5. (1) Upon each person approved for a permit under  
34 the provisions of the Alcoholic Beverage Control Law and  
35 amendments thereto, there is levied and imposed for each location  
36 for the privilege of engaging and continuing in this state in the  
37 business authorized by such permit, an annual privilege license  
38 tax in the amount provided in the following schedule:

39 (a) Manufacturer's permit, Class 1, distiller's and/or

40 rectifier's.....\$4,500.00  
 41           (b) Manufacturer's permit, Class 2, wine  
 42 manufacturer.....\$1,800.00  
 43           (c) Manufacturer's permit, Class 3, native  
 44 wine manufacturer per 10,000 gallons or part thereof  
 45 produced.....\$ 10.00  
 46           (d) Native wine retailer's permit.....\$ 50.00  
 47           (e) Package retailer's permit, each.....\$ 900.00  
 48           (f) On-premises retailer's permit, except  
 49 for clubs and common carriers, each.....\$ 450.00  
 50                 On purchases exceeding \$5,000.00 and for each  
 51 additional \$5,000.00, or fraction thereof.....\$ 225.00  
 52           (g) On-premises retailer's permit for wine  
 53 of more than four percent (4%) alcohol by volume, but  
 54 not more than twenty-one percent (21%) alcohol by  
 55 volume (each).....\$ 225.00  
 56                 On purchases exceeding \$5,000.00 and for each  
 57 additional \$5,000.00, or fraction thereof.....\$ 225.00  
 58           (h) On-premises retailer's permit for clubs...\$ 225.00  
 59                 On purchases exceeding \$5,000.00 and for each  
 60 additional \$5,000.00, or fraction thereof.....\$ 225.00  
 61           (i) On-premises retailer's permit for common  
 62 carriers, per car, plane, or other vehicle.....\$ 120.00  
 63           (j) Solicitor's permit, regardless of any other  
 64 provision of law, solicitor's permits shall be issued  
 65 only in the discretion of the commission.....\$ 100.00  
 66           (k) Filing fee for each application except  
 67 for an employee identification card.....\$ 25.00  
 68           (l) Temporary permit, Class 1, each.....\$ 10.00  
 69           (m) Temporary permit, Class 2, each.....\$ 50.00  
 70                 On-premises purchases exceeding \$5,000.00 and  
 71 for each additional \$5,000.00, or fraction thereof.....\$ 225.00  
 72           (n) (i) Caterer's permit.....\$ 600.00

73                   On purchases exceeding \$5,000.00 and for each  
74 additional \$5,000.00, or fraction thereof.....\$ 250.00  
75                   (ii) Caterer's permit for holders of  
76 on-premises retailer's permit.....\$ 150.00  
77                   On purchases exceeding \$5,000.00 and for each  
78 additional \$5,000.00, or fraction thereof.....\$ 250.00  
79                   (o) Research permit.....\$ 100.00  
80                   (p) Filing fee for each application for an employee  
81 identification card.....\$ 5.00  
82                   (q) Wine distributor's permit.....\$1,800.00

83           In addition to the filing fee imposed by item (k) of this  
84 subsection, a fee to be determined by the State Tax Commission may  
85 be charged to defray costs incurred to process applications. Such  
86 additional fees shall be paid into the State Treasury to the  
87 credit of a special fund account, which is hereby created, and  
88 expenditures therefrom shall be made only to defray the costs  
89 incurred by the State Tax Commission in processing alcoholic  
90 beverage applications. Any unencumbered balance remaining in the  
91 special fund account on June 30 of any fiscal year shall lapse  
92 into the State General Fund.

93           All privilege taxes herein imposed shall be paid in advance  
94 of doing business. The additional privilege tax imposed for an  
95 on-premises retailer's permit based upon purchases shall be due  
96 and payable on demand.

97           Any person who has paid the additional privilege license tax  
98 imposed by item (f), (g), (h), (m) or (n) of this subsection, and  
99 whose permit is renewed, may add any unused fraction of Five  
100 Thousand Dollars (\$5,000.00) purchases to the first Five Thousand  
101 Dollars (\$5,000.00) purchases authorized by the renewal permit,  
102 and no additional license tax will be required until purchases  
103 exceed the sum of the two (2) figures.

104           (2) There is imposed and shall be collected from each  
105 permittee, except a common carrier, solicitor, holder of an

employee identification card or a temporary permittee, by the commission, an additional license tax equal to the amounts imposed under subsection (1) of this section for the privilege of doing business within any municipality or county in which the licensee is located. If the licensee is located within a municipality, the commission shall pay the amount of additional license tax to the municipality, and if outside a municipality the commission shall pay the additional license tax to the county in which the licensee is located. Payments by the commission to the respective local government subdivisions shall be made once each month for any collections during the preceding month.

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

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

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

(6) It shall be unlawful for any person to consume alcoholic beverages on the premises of any hotel restaurant, restaurant, club or the interior of any public place defined in Chapter 1,

139 Title 67, Mississippi Code of 1972, when the owner or manager  
140 thereof displays in several conspicuous places inside said  
141 establishment and at the entrances thereto a sign containing the  
142 following language: NO ALCOHOLIC BEVERAGES ALLOWED.

143 SECTION 2. Section 27-71-7, Mississippi Code of 1972, is  
144 amended as follows:

145 27-71-7. (1) There is hereby levied and assessed an excise  
146 tax upon each case of alcoholic beverages sold by the commission  
147 or the holder of a wine distributor's permit to be collected from  
148 each retail licensee at the time of sale in accordance with the  
149 following schedule:

- 150 (a) Distilled spirits.....\$2.50 per gallon  
151 (b) Sparkling wine and champagne.....\$1.00 per gallon  
152 (c) Other wines, including native  
153 wines.....\$ .35 per gallon

154 (2) (a) In addition to the tax levied by subsection (1) of  
155 this section, and in addition to any other markup collected, the  
156 Alcoholic Beverage Control Division and the holder of a wine  
157 distributor's permit shall collect a markup of three percent (3%)  
158 on all alcoholic beverages, as defined in Section 67-1-5,  
159 Mississippi Code of 1972, which are sold by the division or the  
160 holder of a wine distributor's permit. The proceeds of the markup  
161 shall be collected by the division or the holder of a wine  
162 distributor's permit, as appropriate, from each purchaser at the  
163 time of purchase.

164 (b) Until June 30, 1987, the revenue derived from this  
165 three percent (3%) markup shall be deposited by the division in  
166 the State Treasury to the credit of the "Alcoholism Treatment and  
167 Rehabilitation Fund," a special fund which is hereby created in  
168 the State Treasury, and shall be used by the Division of Alcohol  
169 and Drug Abuse of the State Department of Mental Health and public  
170 or private centers or organizations solely for funding of  
171 treatment and rehabilitation programs for alcoholics and alcohol

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

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

(3) If the tax and markup provided for in subsections (1) and (2) of this section are collected by the holder of a wine distributor's permit, the proceeds of such tax and markup shall be remitted to the State Tax Commission on or before the fifteenth day of the month following the month in which the tax and markup were collected.

SECTION 3. Section 27-71-11, Mississippi Code of 1972, is amended as follows:

27-71-11. The commission shall from time to time by resolution request the State Bond Commission to provide sufficient funds required to maintain an adequate alcoholic beverage inventory. Said funds shall be provided under the provisions of Chapter 557, Laws of 1966.

205       The commission shall add to the cost of all alcoholic  
206 beverages it distributes a markup of twenty-seven and one-half  
207 percent (27-1/2%), inclusive of the three percent (3%) markup  
208 imposed by Section 27-71-7(2).

209       The commission shall sell alcoholic beverages at uniform  
210 prices throughout the state.

211       SECTION 4. Section 27-71-15, Mississippi Code of 1972, is  
212 amended as follows:

213       27-71-15. Except as otherwise provided in Section 67-9-1 for  
214 the transportation of limited amounts of alcoholic beverages for  
215 the use of an alcohol processing permittee, if transportation  
216 requires passage through a county which has not authorized the  
217 sale of alcoholic beverages, such transportation shall be by a  
218 sealed vehicle. Such seal shall remain unbroken until the vehicle  
219 shall reach the place of business operated by the permittee. The  
220 operator of any vehicle transporting alcoholic beverages shall  
221 have in his possession an invoice issued by the commission or the  
222 holder of a wine distributor's permit at the time of the wholesale  
223 sale covering the merchandise transported by the vehicle. The  
224 commission is authorized to issue regulations controlling the  
225 transportation of alcoholic beverages.

226       When the restrictions imposed by this section and by the  
227 regulation of the commission have not been violated, the person  
228 transporting alcoholic beverages through a county wherein the sale  
229 of alcoholic beverages is prohibited shall not be guilty of  
230 unlawful possession and such merchandise shall be immune from  
231 seizure.

232       SECTION 5. Section 27-71-21, Mississippi Code of 1972, is  
233 amended as follows:

234       27-71-21. Before any person shall engage in the business of  
235 manufacturing or retailing of alcoholic beverages or distributing  
236 wine, he may be required to enter into a bond payable to the State  
237 of Mississippi, conditioned that he will conduct said business

strictly in accordance with the laws of the State of Mississippi,  
and that he will comply with the rules and regulations prescribed  
by the commission, and pay all taxes due the State of Mississippi.

The amount of a bond required of a wine distributor or a  
manufacturer, not including a producer of native wine, shall not  
exceed One Hundred Thousand Dollars (\$100,000.00), and the amount  
required of a retailer shall be Five Thousand Dollars (\$5,000.00).

Provided, however, any retailer whose check for purchase of  
merchandise or payment of taxes shall be dishonored may be  
required by the commission to post additional bond not to exceed  
Five Thousand Dollars (\$5,000.00). Such bond shall be made in a  
surety company authorized to do business in the State of  
Mississippi and shall be approved by the commission. The  
commission shall be authorized to institute suit in the proper  
court for any violation of the condition of said bonds. The  
amount of the bond required of a producer of native wine shall be  
Five Thousand Dollars (\$5,000.00).

As an alternative to entering into a bond as required by this  
section, any person who shall engage in the business of  
manufacturing or retailing alcoholic beverages or distributing  
wine may, subject to the same conditions of conduct required for  
bonds, deposit with the State Treasurer the equivalent amount of  
the bond required for that particular person in cash or  
securities. The only securities allowable for this purpose are  
those which may legally be purchased by a bank or for trust funds,  
having a market value not less than that of the required bond.  
The commission shall file notice with the Treasurer for any  
violation of the conditions of the cash or security deposit.

SECTION 6. Section 27-71-201, Mississippi Code of 1972, is  
amended as follows:[BD1]

27-71-201. (1) In addition to any tax or markup being  
collected from the sale of alcoholic beverages on the effective  
date of this article, the Alcoholic Beverage Control Division of



271 the State Tax Commission shall collect a surcharge of one percent  
272 (1%) of the gross proceeds of sales, as defined in Section  
273 27-65-3, Mississippi Code of 1972, by the commission. The  
274 surcharge shall be collected by the division from each permittee  
275 at the time of sale.

276 (2) The revenue derived from the surcharge imposed in  
277 subsection (1) of this section shall be deposited by the division  
278 in a special fund, hereby created in the State Treasury, which is  
279 designated the "ABC Warehouse Construction Fund." The monies in  
280 such special fund are earmarked for use by the State Tax  
281 Commission for any expenditure, including the repayment of loans,  
282 it makes to construct and equip a new warehouse for the Alcoholic  
283 Beverage Control Division as authorized by Section 27-71-203.

284 (3) Any revenue from the surcharge remaining in the fund  
285 after payment in full of expenditures to construct and equip the  
286 Alcoholic Beverage Control Division warehouse shall, at the end of  
287 the fiscal year wherein full payment has been made, lapse to the  
288 General Fund. The imposition of the surcharge itself shall stand  
289 repealed by operation of law when there are sufficient revenues in  
290 the "ABC Warehouse Construction Fund" to make expenditures to  
291 complete the warehouse construction, including the repayment of  
292 any loans obtained for such purpose.

293 SECTION 7. Section 67-1-5, Mississippi Code of 1972, is  
294 amended as follows:

295 67-1-5. For the purposes of this chapter and unless  
296 otherwise required by the context:

297 (a) \* \* \* Alcoholic beverage" means any alcoholic  
298 liquid, including wines of more than five percent (5%) of alcohol  
299 by weight, capable of being consumed as a beverage by a human  
300 being, but shall not include wine containing five percent (5%) or  
301 less of alcohol by weight and shall not include beer containing  
302 not more than five percent (5%) of alcohol by weight, as provided  
303 for in Section 67-3-5, Mississippi Code of 1972, but shall include

native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes.

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

(c) \* \* \* Distilled spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

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

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

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

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

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

(i) \* \* \* Commission" means the State Tax Commission of the State of Mississippi, which shall create a division in its organization to be known as the Alcoholic Beverage Control Division. Any reference to the commission hereafter means the powers and duties of the State Tax Commission with reference to

337 supervision of the Alcoholic Beverage Control Division.

338           (j) \* \* \* Division" means the Alcoholic Beverage Control  
339 Division of the State Tax Commission.

340           (k) \* \* \* Municipality" means any incorporated city or  
341 town of this state.

342           (l) \* \* \* Hotel" means an establishment within a  
343 municipality, or within a qualified resort area approved as such  
344 by the commission, where, in consideration of payment, food and  
345 lodging are habitually furnished to travelers and wherein are  
346 located at least twenty (20) adequately furnished and completely  
347 separate sleeping rooms with adequate facilities that persons  
348 usually apply for and receive as overnight accommodations. Hotels  
349 in towns or cities of more than twenty-five thousand (25,000)  
350 population are similarly defined except that they must have fifty  
351 (50) or more sleeping rooms. Any such establishment described in  
352 this paragraph with less than fifty (50) beds shall operate one or  
353 more regular dining rooms designed to be constantly frequented by  
354 customers each day. When used in this chapter, the word "hotel"  
355 shall also be construed to include any establishment that meets  
356 the definition of "bed and breakfast inn" as provided in this  
357 section.

358           (m) \* \* \* Restaurant" means a place which is regularly  
359 and in a bona fide manner used and kept open for the serving of  
360 meals to guests for compensation, which has suitable seating  
361 facilities for guests, and which has suitable kitchen facilities  
362 connected therewith for cooking an assortment of foods and meals  
363 commonly ordered at various hours of the day; the service of such  
364 food as sandwiches and salads only shall not be deemed in  
365 compliance with this requirement. No place shall qualify as a  
366 restaurant under this chapter unless twenty-five percent (25%) or  
367 more of the revenue derived from such place shall be from the  
368 preparation, cooking and serving of meals and not from the sale of  
369 beverages, or unless the value of food given to and consumed by

370 customers is equal to twenty-five percent (25%) or more of total  
371 revenue.

372 (n) \* \* \* Club" means an association or a corporation:

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

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

378 (iii) Maintained by its members through the  
379 payment of annual dues;

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

384 (v) The affairs and management of which are  
385 conducted by a board of directors, board of governors, executive  
386 committee, or similar governing body chosen by the members at a  
387 regular meeting held at some periodic interval; and

388 (vi) No member, officer, agent or employee of  
389 which is paid, or directly or indirectly receives, in the form of  
390 a salary or other compensation any profit from the distribution or  
391 sale of alcoholic beverages to the club or to members or guests of  
392 the club beyond such salary or compensation as may be fixed and  
393 voted at a proper meeting by the board of directors or other  
394 governing body out of the general revenues of the club.

395 The commission may, in its discretion, waive the five-year  
396 provision of this paragraph. In order to qualify under this  
397 paragraph, a club must file with the commission, at the time of  
398 its application for a license under this chapter, two (2) copies  
399 of a list of the names and residences of its members and similarly  
400 file, within ten (10) days after the election of any additional  
401 member, his name and address. Each club applying for a license  
402 shall also file with the commission at the time of the application

a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) \* \* \* Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the commission.

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

(ii) The term includes any state park which is declared a resort area by the commission; however, such declaration may only be initiated in a written request for resort area status made to the commission by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcoholic beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes the clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park. The status of these clubhouses as qualified resort areas does not require any declaration of same by

436 the commission.

437 (p) \* \* \* Native wine" means any product, produced in  
438 Mississippi for sale, having an alcohol content not to exceed  
439 twenty-one percent (21%) by weight and made in accordance with  
440 revenue laws of the United States, which shall be obtained  
441 primarily from the alcoholic fermentation of the juice of ripe  
442 grapes, fruits, berries or vegetables grown and produced in  
443 Mississippi; provided that bulk, concentrated or fortified wines  
444 used for blending may be produced without this state and used in  
445 producing native wines. The commission shall adopt and promulgate  
446 rules and regulations to permit a producer to import such bulk  
447 and/or fortified wines into this state for use in blending with  
448 native wines without payment of any excise tax that would  
449 otherwise accrue thereon.

450 (q) \* \* \* Native winery" means any place or  
451 establishment within the State of Mississippi where native wine is  
452 produced in whole or in part for sale.

453 (r) \* \* \* Bed and breakfast inn" means an establishment  
454 within a municipality where in consideration of payment, breakfast  
455 and lodging are habitually furnished to travelers and wherein are  
456 located not less than eight (8) and not more than nineteen (19)  
457 adequately furnished and completely separate sleeping rooms with  
458 adequate facilities, that persons usually apply for and receive as  
459 overnight accommodations; however, such restriction on the minimum  
460 number of sleeping rooms shall not apply to establishments on the  
461 National Register of Historic Places. No place shall qualify as a  
462 bed and breakfast inn under this chapter unless on the date of the  
463 initial application for a license under this chapter more than  
464 fifty percent (50%) of the sleeping rooms are located in a  
465 structure formerly used as a residence.

466 (s) "Wine distributor" means a person engaged in  
467 purchasing, transporting and storing wine or vinous liquor within  
468 the State of Mississippi and selling at wholesale wine or vinous

liquor to permittees, other than package retailer's permit  
holders, who are authorized to sell wine at retail.

SECTION 8. Section 67-1-9, Mississippi Code of 1972, is  
amended as follows:

67-1-9. (1) It shall be unlawful for any person to  
manufacture, distill, brew, sell, possess, import into this state,  
export from the state, transport, distribute, warehouse, store,  
solicit, take order for, bottle, rectify, blend, treat, mix or  
process any alcoholic beverage except as authorized in this  
chapter. However, nothing contained herein shall prevent  
importers, wineries and distillers of alcoholic beverages from  
storing such alcoholic beverages in private bonded warehouses  
located within the State of Mississippi for the ultimate use and  
benefit of the State Tax Commission as provided in Section  
67-1-41, and nothing contained herein shall prohibit the holder of  
a wine distributor's permit from storing wine in private bonded  
warehouses located in the State of Mississippi for resale to  
authorized permittees other than package retailer's permit  
holders. The commission is hereby authorized to promulgate rules  
and regulations for the establishment of such private bonded  
warehouses and for the control of alcoholic beverages stored in  
such warehouses. Additionally, nothing herein contained shall  
prevent any duly licensed practicing physician or dentist from  
possessing or using alcoholic liquor in the strict practice of his  
profession, or prevent any hospital or other institution caring  
for sick and diseased persons, from possessing and using alcoholic  
liquor for the treatment of bona fide patients of such hospital or  
other institution. Any drugstore employing a licensed pharmacist  
may possess and use alcoholic liquors in the combination of  
prescriptions of duly licensed physicians. The possession and  
dispensation of wine by an authorized representative of any church  
for the purpose of conducting any bona fide rite or religious  
ceremony conducted by such church shall not be prohibited by this

502 chapter.

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

505 (a) By a fine of not less than One Hundred Dollars  
506 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by  
507 imprisonment in the county jail not less than one (1) week nor  
508 more than three (3) months, or both, for the first conviction  
509 under this section.

510 (b) By a fine of not less than One Hundred Dollars  
511 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
512 imprisonment in the county jail not less than sixty (60) days, nor  
513 more than six (6) months, or both fine and imprisonment, for the  
514 second conviction for violating this section.

515 (c) By a fine of not less than One Hundred Dollars  
516 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
517 imprisonment in the State Penitentiary not less than one (1) year,  
518 nor more than five (5) years, or both fine and imprisonment, for  
519 conviction the third time under this section for the violation  
520 thereof after having been twice convicted of its violation.

521 SECTION 9. Section 67-1-37, Mississippi Code of 1972, is  
522 amended as follows:

523 **[Through June 30, 2000, this section shall read as follows:]**

524 67-1-37. The State Tax Commission, under its duties and  
525 powers with respect to the Alcoholic Beverage Control Division  
526 therein, shall have the following powers, functions and duties:

527 (a) To issue or refuse to issue any permit provided for  
528 by this chapter, or to extend the permit or remit in whole or any  
529 part of the permit monies when the permit cannot be used due to a  
530 natural disaster or Act of God.

531 (b) To revoke, suspend or cancel, for violation of or  
532 noncompliance with the provisions of this chapter, or the law  
533 governing the production and sale of native wines, or any lawful  
534 rules and regulations of the commission issued hereunder, or for



other sufficient cause, any permit issued by it under the provisions of this chapter; however, no such permit shall be revoked, suspended or cancelled except after a hearing of which the permit holder shall have been given reasonable notice and an opportunity to be heard. The commission shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcoholic beverages.

(e) To issue rules regulating the advertising of alcoholic beverages in the state in any class of media and permitting advertising of the retail price of alcoholic beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcoholic beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcoholic beverages; however, such containers shall not contain less than fifty (50) milliliters by

568 liquid measure.

569           (g) Subject to the provisions of \* \* \* Section  
570 67-1-51(3), to issue rules and regulations governing the issuance  
571 of retail permits for premises located near or around schools,  
572 colleges, universities, churches and other public institutions,  
573 and specifying the distances therefrom within which no such permit  
574 shall be issued. The alcoholic beverage control division shall  
575 not allow the sale or consumption of alcoholic beverages in or on  
576 the campus of any public school or college, and no alcoholic  
577 beverage shall be for sale or consumed at any public athletic  
578 event at any grammar or high school or any college.

579           (h) To adopt and promulgate, repeal and amend, such  
580 rules, regulations, standards, requirements and orders, not  
581 inconsistent with this chapter or any law of this state or of the  
582 United States, as it deems necessary to control the manufacture,  
583 importation, transportation, distribution and sale of alcoholic  
584 liquor, whether intended for beverage or nonbeverage use in a  
585 manner not inconsistent with the provisions of this chapter or any  
586 other statute, including the native wine laws.

587           (i) To call upon other administrative departments of  
588 the state, county and municipal governments, county and city  
589 police departments and upon prosecuting officers for such  
590 information and assistance as it may deem necessary in the  
591 performance of its duties.

592           (j) To prepare and submit to the Governor during the  
593 month of January of each year a detailed report of its official  
594 acts during the preceding fiscal year ending June 30, including  
595 such recommendations as it may see fit to make, and to transmit a  
596 like report to each member of the Legislature of this state upon  
597 the convening thereof at its next regular session.

598           (k) To inspect, or cause to be inspected, any premises  
599 where alcoholic liquors intended for sale are manufactured,  
600 stored, distributed or sold, and to examine or cause to be

601 examined all books and records pertaining to the business  
602 conducted therein.

603           (1) In the conduct of any hearing authorized to be held  
604 by the commission, to hear testimony and take proof material for  
605 its information in the discharge of its duties under this chapter;  
606 to issue subpoenas, which shall be effective in any part of this  
607 state, requiring the attendance of witnesses and the production of  
608 books and records; to administer or cause to be administered  
609 oaths; and to examine or cause to be examined any witness under  
610 oath. Any court of record, or any judge thereof, may by order  
611 duly entered require the attendance of witnesses and the  
612 production of relevant books subpoenaed by the commission, and  
613 such court or judge may compel obedience to its or his order by  
614 proceedings for contempt.

615           (m) To investigate the administration of laws in  
616 relation to alcoholic liquors in this and other states and any  
617 foreign countries, and to recommend from time to time to the  
618 Governor and through him to the Legislature of this state such  
619 amendments to this chapter, if any, as it may think desirable.

620           (n) To designate hours and days when alcoholic  
621 beverages may be sold in different localities in the state which  
622 permit such sale.

623           (o) To assign employees to posts of duty at locations  
624 where they will be most beneficial for the control of alcoholic  
625 beverages, to remove, to dismiss, to suspend without pay, to act  
626 as a trial board in hearings based upon charges against employees.  
627 After twelve (12) months' service, no employee shall be removed,  
628 dismissed, demoted or suspended without just cause and only after  
629 being furnished with reasons for such removal, dismissal, demotion  
630 or suspension, and upon request given a hearing in his own  
631 defense.

632           (p) All hearings conducted by the commission shall be  
633 open to the public, and, when deemed necessary, a written

634 transcript shall be made of the testimony introduced thereat.

635           (q) To adopt and promulgate rules and regulations for  
636 suspension or revocation of identification cards of employees of  
637 permittees for violations of the alcoholic beverage control laws,  
638 rules or regulations.

639           (r) To enforce the provisions made unlawful by Section  
640 67-3-53.

641           (s) To adopt and promulgate rules and regulations  
642 governing the purchase for resale, distribution and sale of wine  
643 or vinous liquor.

644           **[From and after July 1, 2000, this section shall read as**  
645 **follows:]**

646           67-1-37. The State Tax Commission, under its duties and  
647 powers with respect to the Alcoholic Beverage Control Division  
648 therein, shall have the following powers, functions and duties:

649           (a) To issue or refuse to issue any permit provided for  
650 by this chapter, or to extend the permit or remit in whole or any  
651 part of the permit monies when the permit cannot be used due to a  
652 natural disaster or Act of God.

653           (b) To revoke, suspend or cancel, for violation of or  
654 noncompliance with the provisions of this chapter, or the law  
655 governing the production and sale of native wines, or any lawful  
656 rules and regulations of the commission issued hereunder, or for  
657 other sufficient cause, any permit issued by it under the  
658 provisions of this chapter; however, no such permit shall be  
659 revoked, suspended or cancelled except after a hearing of which  
660 the permit holder shall have been given reasonable notice and an  
661 opportunity to be heard. The commission shall be authorized to  
662 suspend the permit of any permit holder for being out of  
663 compliance with an order for support, as defined in Section  
664 93-11-153. The procedure for suspension of a permit for being out  
665 of compliance with an order for support, and the procedure for the  
666 reissuance or reinstatement of a permit suspended for that

purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcoholic beverages.

(e) To issue rules regulating the advertising of alcoholic beverages in the state in any class of media and permitting advertising of the retail price of alcoholic beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcoholic beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcoholic beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

(g) Subject to the provisions of \* \* \* Section 67-1-51(3), to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying the distances therefrom within which no such permit shall be issued. The alcoholic beverage control division shall not allow the sale or consumption of alcoholic beverages in or on the campus of any public school or college, and no alcoholic beverage shall be for sale or consumed at any public athletic

700 event at any grammar or high school or any college.

701           (h) To adopt and promulgate, repeal and amend, such  
702 rules, regulations, standards, requirements and orders, not  
703 inconsistent with this chapter or any law of this state or of the  
704 United States, as it deems necessary to control the manufacture,  
705 importation, transportation, distribution and sale of alcoholic  
706 liquor, whether intended for beverage or nonbeverage use in a  
707 manner not inconsistent with the provisions of this chapter or any  
708 other statute, including the native wine laws.

709           (i) To call upon other administrative departments of  
710 the state, county and municipal governments, county and city  
711 police departments and upon prosecuting officers for such  
712 information and assistance as it may deem necessary in the  
713 performance of its duties.

714           (j) To prepare and submit to the Governor during the  
715 month of January of each year a detailed report of its official  
716 acts during the preceding fiscal year ending June 30, including  
717 such recommendations as it may see fit to make, and to transmit a  
718 like report to each member of the Legislature of this state upon  
719 the convening thereof at its next regular session.

720           (k) To inspect, or cause to be inspected, any premises  
721 where alcoholic liquors intended for sale are manufactured,  
722 stored, distributed or sold, and to examine or cause to be  
723 examined all books and records pertaining to the business  
724 conducted therein.

725           (l) In the conduct of any hearing authorized to be held  
726 by the commission, to hear testimony and take proof material for  
727 its information in the discharge of its duties under this chapter;  
728 to issue subpoenas, which shall be effective in any part of this  
729 state, requiring the attendance of witnesses and the production of  
730 books and records; to administer or cause to be administered  
731 oaths; and to examine or cause to be examined any witness under  
732 oath. Any court of record, or any judge thereof, may by order

duly entered require the attendance of witnesses and the production of relevant books subpoenaed by the commission, and such court or judge may compel obedience to its or his order by proceedings for contempt.

(m) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him to the Legislature of this state such amendments to this chapter, if any, as it may think desirable.

(n) To designate hours and days when alcoholic beverages may be sold in different localities in the state which permit such sale.

(o) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcoholic beverages, to remove, to dismiss, to suspend without pay, to act as a trial board in hearings based upon charges against employees. After twelve (12) months' service, no employee shall be removed, dismissed, demoted or suspended without just cause and only after being furnished with reasons for such removal, dismissal, demotion or suspension, and upon request given a hearing in his own defense.

(p) All hearings conducted by the commission shall be open to the public, and, when deemed necessary, a written transcript shall be made of the testimony introduced thereat.

(q) To adopt and promulgate rules and regulations for suspension or revocation of identification cards of employees of permittees for violations of the alcoholic beverage control laws, rules or regulations.

(r) To adopt and promulgate rules and regulations governing the purchase for resale, distribution and sale of wine or vinous liquor.

SECTION 10. Section 67-1-41, Mississippi Code of 1972, is amended as follows:

67-1-41. (1) The State Tax Commission is hereby created a wholesale distributor and seller of alcoholic beverages, not including malt liquors and wine or vinous liquor, within the State of Mississippi. It is granted the sole right to import and sell such intoxicating liquors at wholesale within the state, and no person who is granted the right to sell, distribute or receive such liquors at retail shall purchase any such intoxicating liquors from any source other than the commission except as authorized in subsections (4) and (9) of this section, provided that retailers and consumers may purchase native wines directly from the producer. The commission may establish warehouses, purchase intoxicating liquors in such quantities and from such sources as it may deem desirable and sell the same to authorized permittees within the state including, at the discretion of the commission, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this chapter.

The commission is empowered to borrow such working capital as may be required, not to exceed the sum of Nine Hundred Thousand Dollars (\$900,000.00). Such loan shall be repaid from the earnings of the wholesale liquor business.

The commission is hereby authorized to use and to promulgate rules for the affixing of identification stamps to each container of alcoholic liquor.

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



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

803           (4) The commission may promulgate rules and regulations  
804 which authorize on-premises retailers to purchase limited amounts  
805 of alcoholic beverages from package retailers and for package  
806 retailers to purchase limited amounts of alcoholic beverages from  
807 other package retailers. The commission shall develop and provide  
808 forms to be completed by the on-premises retailers and the package  
809 retailers verifying the transaction. The completed forms shall be  
810 forwarded to the commission within a period of time prescribed by  
811 the commission.

812           (5) The commission may promulgate rules which authorize the  
813 holder of a package retailer's permit to permit individual retail  
814 purchasers of packages of alcoholic beverages to return, for  
815 exchange, credit or refund, limited amounts of original sealed and  
816 unopened packages of alcoholic beverages purchased by such  
817 individual from the package retailer.

818           (6) The commission shall maintain all forms to be completed  
819 by applicants necessary for licensure by the commission at all  
820 district offices of the commission.

821           (7) The commission may promulgate rules which authorize the  
822 manufacturer of an alcoholic beverage or wine to import, transport  
823 and furnish or give a sample of alcoholic beverages or wines to  
824 the holders of package retailer's permits, on-premises retailer's  
825 permits, native wine retailer's permits and temporary retailer's  
826 permits who have not previously purchased the brand of that  
827 manufacturer from the commission. For each holder of the  
828 designated permits, the manufacturer may furnish not more than  
829 five hundred (500) milliliters of any brand of alcoholic beverage  
830 and not more than three (3) liters of any brand of wine.

831           (8) The commission may promulgate rules disallowing open

product sampling of alcoholic beverages or wines by the holders of package retailer's permits and permitting open product sampling of alcoholic beverages by the holders of on-premises retailer's permits. Permitted sample products shall be plainly identified "sample" and the actual sampling must occur in the presence of the manufacturer's representatives during the legal operating hours of on-premises retailers.

(9) The commission may promulgate rules and regulations that authorize the holder of a research permit to import and purchase limited amounts of alcoholic beverages from importers, wineries and distillers of alcoholic beverages or from the commission. The commission shall develop and provide forms to be completed by the research permittee verifying each transaction. The completed forms shall be forwarded to the commission within a period of time prescribed by the commission. The records and inventory of alcoholic beverages shall be open to inspection at any time by the Director of the Alcoholic Beverage Control Division or any duly authorized agent.

SECTION 11. Section 67-1-43, Mississippi Code of 1972, is amended as follows:[BD2]

67-1-43. Any authorized retail distributor who shall purchase or receive intoxicating liquor from any source except from the commission, unless authorized by rules and regulations of the commission promulgated under subsection (4) of Section 67-1-41, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to which may be added imprisonment in the county jail for not more than six (6) months. Any authorization of such person to sell intoxicating beverages may be revoked as provided by law.  
However, the holder of a wine distributor's permit may sell wine or vinous liquor to authorized permittees other than package retailer's permit holders.

This section shall not apply to any authorized retail distributor who shall purchase native wines directly from the producer.

SECTION 12. Section 67-1-45, Mississippi Code of 1972, is amended as follows:

67-1-45. No manufacturer, rectifier, or distiller of intoxicating liquor shall sell or attempt to sell any such intoxicating liquor, except malt liquor and wine or vinous liquor, within the State of Mississippi, except to the commission, or to the holder of a research permit as provided in Section 67-1-41. However, a producer of native wine may sell native wines to the commission, authorized retail distributor, or directly to consumers. No manufacturer or other person shall sell or attempt to sell any wine or vinous liquor within the State of Mississippi except to the holder of a wine distributor's permit as provided in Section 67-1-41.

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

SECTION 13. Section 67-1-51, Mississippi Code of 1972, is amended as follows:

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

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

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

Class 1. Distiller's and/or rectifier's permit, which shall

898 authorize the holder thereof to operate a distillery for the  
899 production of distilled spirits by distillation or redistillation  
900 and/or to operate a rectifying plant for the purifying, refining,  
901 mixing, blending, flavoring or reducing in proof of distilled  
902 spirits and alcohol.

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

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

909               (b) **Package retailer's permit.** Except as otherwise  
910 provided in this paragraph, a package retailer's permit shall  
911 authorize the holder thereof to operate a store exclusively for  
912 the sale at retail in original sealed and unopened packages of  
913 alcoholic beverages, including native wines, not to be consumed on  
914 the premises where sold. Alcoholic beverages shall not be sold by  
915 any retailer in any package or container containing less than  
916 fifty (50) milliliters by liquid measure. In addition to the sale  
917 at retail of packages of alcoholic beverages, the holder of a  
918 package retailer's permit is authorized to sell at retail  
919 corkscrews, wine glasses, soft drinks, ice, juices, mixers and  
920 other beverages commonly used to mix with alcoholic beverages.  
921 Nonalcoholic beverages sold by the holder of a package retailer's  
922 permit shall not be consumed on the premises where sold.

923               (c) **On-premises retailer's permit.** An on-premises  
924 retailer's permit shall authorize the sale of alcoholic beverages,  
925 including native wines, for consumption on the licensed premises  
926 only. Such a permit shall issue only to qualified hotels,  
927 restaurants and clubs, and to common carriers with adequate  
928 facilities for serving passengers. In resort areas, whether  
929 inside or outside of a municipality, the commission may, in its  
930 discretion, issue on-premises retailer's permits to such

establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales.

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

(e) **Native wine retailer's permit.** A native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery.

(f) **Temporary retailer's permit.** A temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines, during legal hours on the premises described in the temporary permit only.

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

Class 1. A temporary one-day permit may be issued to bona

fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the commission, by affidavit submitted ten (10) days prior to the proposed date or such other time as the commission may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The commission, following review of the affidavit and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in either paragraph (b) or (c) of this section. A Class 2 permit may be issued only to applicants demonstrating to the commission, by affidavit, that they meet the qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The commission, following a preliminary review of the affidavit and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the commission or, with approval of the commission, purchase the remaining stock of the previous permittee.

997           If the proposed applicant of a Class 1 or Class 2 temporary  
998 permit falsifies information contained in the application or  
999 affidavit, the applicant shall never again be eligible for a  
1000 retail alcohol beverage permit and shall be subject to prosecution  
1001 for perjury.

1002           (g) **Caterer's permit.** A caterer's permit shall permit  
1003 the purchase of alcoholic beverages by a person engaging in  
1004 business as a caterer and the resale of alcoholic beverages by  
1005 such person in conjunction with such catering business. No person  
1006 shall qualify as a caterer unless forty percent (40%) or more of  
1007 the revenue derived from such catering business shall be from the  
1008 serving of prepared food and not from the sale of alcoholic  
1009 beverages and unless such person has obtained a permit for such  
1010 business from the Department of Health. A caterer's permit shall  
1011 not authorize the sale of alcoholic beverages on the premises of  
1012 the person engaging in business as a caterer; however, the holder  
1013 of an on-premises retailer's permit may hold a caterer's permit.  
1014 All sales of alcoholic beverages by holders of a caterer's permit  
1015 shall be made at the location being catered by the caterer, and  
1016 such sales may be made only for consumption at the catered  
1017 location. Such sales shall be made pursuant to any other  
1018 conditions and restrictions which apply to sales made by  
1019 on-premises retail permittees. The holder of a caterer's permit  
1020 or his employees shall remain at the catered location as long as  
1021 alcoholic beverages are being sold pursuant to the permit issued  
1022 under this paragraph (g), and the permittee and employees at such  
1023 location shall each have personal identification cards issued by  
1024 the Alcoholic Beverage Control Division of the commission. No  
1025 unsold alcoholic beverages may be left at the catered location by  
1026 the permittee upon the conclusion of his business at that  
1027 location. Appropriate law enforcement officers and Alcoholic  
1028 Beverage Control Division personnel may enter a catered location  
1029 on private property in order to enforce laws governing the sale or

1030 serving of alcoholic beverages.

1031           (h) **Research Permit.** A research permit shall authorize  
1032 the holder thereof to operate a research facility for the  
1033 professional research of alcoholic beverages. Such permit shall  
1034 authorize the holder of the permit to import and purchase limited  
1035 amounts of alcoholic beverages from the commission or from  
1036 importers, wineries and distillers of alcoholic beverages for  
1037 professional research.

1038           (i) **Alcohol processing permit.** An alcohol processing  
1039 permit shall authorize the holder thereof to purchase, transport  
1040 and possess alcoholic beverages for the exclusive use in cooking,  
1041 processing or manufacturing products which contain alcoholic  
1042 beverages as an integral ingredient. An alcohol processing permit  
1043 shall not authorize the sale of alcoholic beverages on the  
1044 premises of the person engaging in the business of cooking,  
1045 processing or manufacturing products which contain alcoholic  
1046 beverages. The amounts of alcoholic beverages allowed under an  
1047 alcohol processing permit shall be set by the commission.

1048           (j) **Wine distributor's permit.** A wine distributor's  
1049 permit shall authorize the holder thereof to purchase for resale,  
1050 to store and to distribute to authorized permittees, excluding  
1051 package retailer's permit holders, wine or vinous liquor. Such  
1052 permit shall entitle the holder thereof to purchase wine or vinous  
1053 liquor from any manufacturer or importer for the purpose of resale  
1054 in this state to permittees, excluding package retailer's permit  
1055 holders, that are authorized to sell wine or vinous liquor at  
1056 retail. The holder of a wine distributor's permit may transport  
1057 wine or vinous liquor into the State of Mississippi and store such  
1058 wine or vinous liquor in a private bonded warehouse of such  
1059 permittee's choice for sale to permittees, excluding package  
1060 retailer's permit holders, who are authorized to sell wine or  
1061 vinous liquor at retail. The holder of a wine distributor's  
1062 permit may solicit orders for wine or vinous liquor from any



permittee, excluding package retailer's permit holders, that is  
authorized to sell wine or vinous liquor at retail. Records of  
such orders shall be kept and maintained for a period of three (3)  
years after the order is taken and shall be subject to inspection  
by the division at any time without prior notice. The holder of a  
wine distributor's permit shall deliver wine or vinous liquor to  
an authorized permittee, excluding package retailer's permit  
holders, within three (3) days of receipt of the order.

(2) Retail permittees may hold more than one (1) retail permit, at the discretion of the commission.

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

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

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places.

SECTION 14. Section 67-1-77, Mississippi Code of 1972, is amended as follows:

1096           67-1-77. (1) It shall be unlawful for the holder of a  
1097 manufacturer's or wholesaler's permit, or anyone connected with  
1098 the business of such holder, or for any other distiller, wine  
1099 manufacturer, wine distributor, brewer, rectifier, blender, or  
1100 bottler, to have any financial interest in any premises upon which  
1101 any alcoholic beverage is sold at retail by any permittee, or in  
1102 the business conducted by such permittee; provided, however, the  
1103 holder of a manufacturer's or wholesaler's permit may contract for  
1104 the service of a representative in the area of governmental  
1105 affairs on a part-time basis with a holder of an on-premises  
1106 permit.

1107           (2) It shall also be unlawful for any such person, or anyone  
1108 connected with his, its, or their business to lend any money or  
1109 make any gift or offer any gratuity, to any retail permittee,  
1110 except as authorized by regulations of the commission, to the  
1111 holder of any retail permit issued under the provisions of this  
1112 chapter. Except as above provided, no retail permittee shall  
1113 accept, receive, or make use of any money or gift furnished by any  
1114 such person, or become indebted to such person except for the  
1115 purchase of alcoholic beverages.

1116           (3) The commission shall not prohibit the furnishing of  
1117 advertising specialties, printed materials, or other things having  
1118 nominal value to a retail permittee. This section shall not be  
1119 construed to prohibit the possession by any person of advertising  
1120 specialties, printed materials, or other things having nominal  
1121 value furnished by a retail permittee.

1122           (4) Any person violating the provisions of this section  
1123 shall, upon conviction, be punished by a fine of not more than  
1124 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more  
1125 than two (2) years, or by both such fine and imprisonment, in the  
1126 discretion of the court.

1127           SECTION 15. This act shall take effect and be in force from  
1128 and after July 1, 2000.