

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 596

1 AN ACT TO REQUIRE THE STATE TAX COMMISSION TO ENTER INTO  
2 CONTRACTS WITH PRIVATE ENTITIES FOR THE SALE, FRANCHISE, LICENSE  
3 OR LEASE OF, AND THE SALE, FRANCHISING, LICENSING OR LEASING ALL  
4 RIGHTS ASSOCIATED WITH, THE WHOLESALE DISTRIBUTION OF ALCOHOLIC  
5 BEVERAGES IN THIS STATE; TO AUTHORIZE THE COMMISSION TO GRANT ONE  
6 OR MORE EXCLUSIVE SERVICE TERRITORIES IN THE STATE IN WHICH A  
7 PRIVATE SECTOR ENTITY HAS THE EXCLUSIVE RIGHTS TO THE WHOLESALE  
8 DISTRIBUTION OF ALCOHOLIC BEVERAGES; TO PROVIDE THAT ANY CONTRACT  
9 ENTERED INTO WITH A PRIVATE ENTITY FOR THE WHOLESALE DISTRIBUTION  
10 OF ALCOHOLIC BEVERAGES SHALL PROVIDE FOR A NEGOTIATED ANNUAL  
11 ROYALTY PAYMENT; TO PROVIDE THAT AMOUNTS PAID BY A PRIVATE ENTITY  
12 FOR THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES AND ANNUAL  
13 ROYALTY PAYMENTS SHALL BE DEPOSITED INTO THE STATE GENERAL FUND;  
14 TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING  
15 ON BEHALF OF THE STATE TAX COMMISSION, TO SELL ALL REAL PROPERTY  
16 OWNED BY THE STATE AND UTILIZED BY THE STATE TAX COMMISSION IN  
17 CONNECTION WITH THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES  
18 BY THE COMMISSION; TO AMEND SECTIONS 27-71-5, 27-71-7, 27-71-9,  
19 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41, 67-1-43,  
20 67-1-45, 67-1-51, 67-1-77 AND 67-1-79, MISSISSIPPI CODE OF 1972,  
21 TO AUTHORIZE THE DISTRIBUTION OF ALCOHOLIC BEVERAGES BY PRIVATE  
22 ENTITIES; TO PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR A  
23 WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE FOR  
24 AN EXCISE TAX ON ALCOHOLIC BEVERAGES SOLD BY THE HOLDER OF A  
25 WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT AND THE  
26 COLLECTION OF SUCH TAX; TO REQUIRE THE OPERATOR OF A VEHICLE  
27 TRANSPORTING ALCOHOLIC BEVERAGES TO POSSESS AN INVOICE ISSUED BY  
28 THE HOLDER OF A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT;  
29 TO PROVIDE THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING  
30 ALCOHOLIC BEVERAGES AT WHOLESALE MAY BE REQUIRED TO ENTER INTO A  
31 BOND PAYABLE TO THE STATE OF MISSISSIPPI CONDITIONED THAT SUCH  
32 DISTRIBUTOR WILL CONDUCT HIS BUSINESS LAWFULLY; TO REVISE THE  
33 DEFINITION OF THE TERM "RESTAURANT" FOR PURPOSES OF THE STATE  
34 LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW, TO DELETE THE  
35 REQUIREMENT THAT IN ORDER FOR A PLACE TO QUALIFY AS A RESTAURANT  
36 UNDER SUCH LAW, 25% OR MORE OF THE REVENUE DERIVED FROM SUCH PLACE  
37 MUST BE FROM THE PREPARATION, COOKING AND SERVING OF MEALS AND NOT  
38 FROM THE SALE OF BEVERAGES, OR THAT THE VALUE OF FOOD GIVEN TO AND  
39 CONSUMED BY CUSTOMERS MUST EQUAL 25% OR MORE OF THE TOTAL REVENUE  
40 OF SUCH PLACE; TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE  
41 RULES AND REGULATIONS GOVERNING THE PURCHASE FOR THE WHOLESALE  
42 RESALE, DISTRIBUTION AND SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE  
43 THAT THE STATE TAX COMMISSION SHALL NOT BE A WHOLESALE DISTRIBUTOR  
44 OF ALCOHOLIC BEVERAGES; TO AUTHORIZE THE STATE TAX COMMISSION TO  
45 ISSUE A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT; TO  
46 PROVIDE THAT SUCH PERMITS SHALL AUTHORIZE THE HOLDER THEREOF TO  
47 PURCHASE ALCOHOLIC BEVERAGES FROM ANY MANUFACTURER OR IMPORTER,  
48 TRANSPORT ALCOHOLIC BEVERAGES INTO THE STATE OF MISSISSIPPI, STORE  
49 ALCOHOLIC BEVERAGES AT THE PRIVATE BONDED WAREHOUSE OF SUCH  
50 PERMITTEE'S CHOICE AND SOLICIT ORDERS FROM AND SELL ALCOHOLIC  
51 BEVERAGES TO PERMITTEES WHO ARE AUTHORIZED TO SELL ALCOHOLIC  
52 BEVERAGES AT RETAIL; TO PROVIDE THAT RECORDS OF ORDERS MUST BE

53 KEPT FOR THREE YEARS AND SHALL BE SUBJECT TO INSPECTION BY THE  
54 ALCOHOLIC BEVERAGE CONTROL DIVISION AT ANY TIME; TO REQUIRE THE  
55 HOLDER OF A WHOLESale ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT TO  
56 DELIVER ALCOHOLIC BEVERAGES WITHIN THREE DAYS OF RECEIPT OF THE  
57 ORDER; TO MAKE IT UNLAWFUL FOR THE HOLDER OF A WHOLESale ALCOHOLIC  
58 BEVERAGE DISTRIBUTION PERMIT TO HAVE A FINANCIAL INTEREST IN ANY  
59 PREMISES UPON WHICH ANY ALCOHOLIC BEVERAGE IS SOLD AT RETAIL; TO  
60 REPEAL SECTIONS 27-71-11, 27-71-13, 27-71-17, 27-71-19, 67-1-47  
61 AND 67-1-49, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE THE STATE  
62 TAX COMMISSION TO REQUEST THE STATE BOND COMMISSION TO PROVIDE  
63 SUFFICIENT FUNDS REQUIRED TO MAINTAIN AN ADEQUATE ALCOHOLIC  
64 BEVERAGE INVENTORY, REQUIRE THE STATE TAX COMMISSION TO PURCHASE  
65 DIRECTLY FROM THE MANUFACTURER, PROVIDE PENALTIES FOR SELLING  
66 ALCOHOLIC BEVERAGES NOT IDENTIFIED AS HAVING BEEN PURCHASED BY THE  
67 COMMISSION, REQUIRE DISTILLERS AND DISTRIBUTORS DEALING WITH THE  
68 STATE TAX COMMISSION TO REGISTER WITH THE SECRETARY OF STATE AND  
69 REQUIRE DISTILLERS HAVING CONTRACTS WITH THE STATE TAX COMMISSION  
70 TO FILE STATEMENTS OF SALARY EXPENSES; AND FOR RELATED PURPOSES.

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

72 **SECTION 1.** The Legislature finds that it is in the public  
73 interest to seek efficiencies and cost savings from privatizing  
74 the wholesale distribution of alcoholic beverages in this state.

75 **SECTION 2.** (1) The State Tax Commission shall enter into  
76 contracts with private entities for the sale, franchise, license  
77 or lease of, and may sell, franchise, license or lease all rights  
78 associated with, the wholesale distribution of alcoholic beverages  
79 in this state.

80 (2) The commission may grant one or more exclusive service  
81 territories in the state in which a private sector entity has the  
82 exclusive rights to the wholesale distribution of alcoholic  
83 beverages.

84 (3) The commission shall adopt rules to effect the transfer  
85 of the distribution of alcoholic beverages to private entities.  
86 The rules shall include, but not be limited to:

87 (a) The method of transfer that promotes the maximum  
88 efficiency and cost savings to the state while ensuring highest  
89 possible revenue for the state;

90 (b) Procedures designed to encourage vigorous bidding  
91 for alcoholic beverage wholesale distribution rights;

92 (c) Criteria for eligibility as a wholesale distributor  
93 of alcoholic beverages.

94 (4) Any contract entered into with a private entity for the  
95 wholesale distribution of alcoholic beverages shall provide for a  
96 negotiated annual royalty payment.

97 (5) Amounts paid by a private entity for the wholesale  
98 distribution of alcoholic beverages and annual royalty payments  
99 shall be deposited into the State General Fund.

100 **SECTION 3.** (1) The Department of Finance and  
101 Administration, acting on behalf of the State Tax Commission,  
102 shall sell all real property owned by the state and utilized by  
103 the State Tax Commission in connection with the wholesale  
104 distribution of alcoholic beverages by the commission.

105 (2) The real property authorized to be sold by subsection  
106 (1) of this section shall be sold for not less than the current  
107 fair market value as determined by the averaging of at least two  
108 (2) appraisals by qualified appraisers who shall be selected by  
109 the Department of Finance and Administration and shall be  
110 certified and licensed by the Mississippi Real Estate Appraiser  
111 Licensing and Certification Board. However, if no bid is received  
112 which is equal to the current market value after readvertising the  
113 property, the property may be sold at auction to the highest  
114 bidder.

115 (3) Any funds received by the state for the sale of real  
116 property authorized to be sold by subsection (1) of this section  
117 shall be deposited into the State General Fund.

118 **SECTION 4.** Section 27-71-5, Mississippi Code of 1972, is  
119 amended as follows:

120 27-71-5. (1) Upon each person approved for a permit under  
121 the provisions of the Alcoholic Beverage Control Law and  
122 amendments thereto, there is levied and imposed for each location  
123 for the privilege of engaging and continuing in this state in the  
124 business authorized by such permit, an annual privilege license  
125 tax in the amount provided in the following schedule:

126 (a) Except as otherwise provided in this subsection  
127 (1), manufacturer's permit, Class 1, distiller's and/or  
128 rectifier's..... \$4,500.00  
129 (b) Manufacturer's permit, Class 2, wine manufacturer  
130 ..... \$1,800.00  
131 (c) Manufacturer's permit, Class 3, native wine  
132 manufacturer per ten thousand (10,000) gallons or part thereof  
133 produced..... \$ 10.00  
134 (d) Native wine retailer's permit..... \$ 50.00  
135 (e) Package retailer's permit, each..... \$ 900.00  
136 (f) On-premises retailer's permit, except for clubs and  
137 common carriers, each..... \$ 450.00  
138 On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
139 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
140 thereof..... \$ 225.00  
141 (g) On-premises retailer's permit for wine of more than  
142 four percent (4%) alcohol by volume, but not more than twenty-one  
143 percent (21%) alcohol by volume, each..... \$ 225.00  
144 On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
145 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
146 thereof..... \$ 225.00  
147 (h) On-premises retailer's permit for clubs.. \$ 225.00  
148 On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
149 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
150 thereof..... \$ 225.00  
151 (i) On-premises retailer's permit for common carriers,  
152 per car, plane, or other vehicle..... \$ 120.00  
153 (j) Solicitor's permit, regardless of any other  
154 provision of law, solicitor's permits shall be issued only in the  
155 discretion of the commission..... \$ 100.00  
156 (k) Filing fee for each application except for an  
157 employee identification card..... \$ 25.00  
158 (l) Temporary permit, Class 1, each..... \$ 10.00

159	(m) Temporary permit, Class 2, each.....	\$ 50.00
160	On-premises purchases exceeding Five Thousand Dollars	
161	(\$5,000.00) and for each additional Five Thousand Dollars	
162	(\$5,000.00), or fraction thereof.....	\$ 225.00
163	(n) (i) Caterer's permit.....	\$ 600.00
164	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
165	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
166	thereof.....	\$ 250.00
167	(ii) Caterer's permit for holders of on-premises	
168	retailer's permit.....	\$ 150.00
169	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
170	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
171	thereof.....	\$ 250.00
172	(o) Research permit.....	\$ 100.00
173	(p) Filing fee for each application for an employee	
174	identification card.....	\$ 5.00
175	(q) <u>Wholesale alcoholic beverage distribution</u>	
176	<u>permit.....</u>	<u>\$1,800.00</u>

177 If a person approved for a manufacturer's permit, Class 1,  
178 distiller's permit produces a product with at least fifty-one  
179 percent (51%) of the finished product by volume being obtained  
180 from alcoholic fermentation of grapes, fruits, berries, honey  
181 and/or vegetables grown and produced in Mississippi, and produces  
182 all of such product by using not more than one (1) still having a  
183 maximum capacity of one hundred fifty (150) liters, the annual  
184 privilege license tax for such a permit shall be Ten Dollars  
185 (\$10.00) per ten thousand (10,000) gallons or part thereof  
186 produced. Bulk, concentrated or fortified ingredients used for  
187 blending may be produced outside this state and used in producing  
188 such a product.

189 In addition to the filing fee imposed by item (k) of this  
190 subsection, a fee to be determined by the State Tax Commission may  
191 be charged to defray costs incurred to process applications. Such

192 additional fees shall be paid into the State Treasury to the  
193 credit of a special fund account, which is hereby created, and  
194 expenditures therefrom shall be made only to defray the costs  
195 incurred by the State Tax Commission in processing alcoholic  
196 beverage applications. Any unencumbered balance remaining in the  
197 special fund account on June 30 of any fiscal year shall lapse  
198 into the State General Fund.

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

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

210 (2) There is imposed and shall be collected from each  
211 permittee, except a common carrier, solicitor, holder of an  
212 employee identification card or a temporary permittee, by the  
213 commission, an additional license tax equal to the amounts imposed  
214 under subsection (1) of this section for the privilege of doing  
215 business within any municipality or county in which the licensee  
216 is located. If the licensee is located within a municipality, the  
217 commission shall pay the amount of additional license tax to the  
218 municipality, and if outside a municipality the commission shall  
219 pay the additional license tax to the county in which the licensee  
220 is located. Payments by the commission to the respective local  
221 government subdivisions shall be made once each month for any  
222 collections during the preceding month.

223 (3) When an application for any permit, other than for  
224 renewal of a permit, has been rejected by the commission, such

225 decision shall be final. Appeal may be made in the manner  
226 provided by Section 67-1-39. Another application from an  
227 applicant who has been denied a permit shall not be reconsidered  
228 within a twelve-month period.

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

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

242 (6) It shall be unlawful for any person to consume alcoholic  
243 beverages on the premises of any hotel restaurant, restaurant,  
244 club or the interior of any public place defined in Chapter 1,  
245 Title 67, Mississippi Code of 1972, when the owner or manager  
246 thereof displays in several conspicuous places inside said  
247 establishment and at the entrances thereto a sign containing the  
248 following language: NO ALCOHOLIC BEVERAGES ALLOWED.

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

251 27-71-7. (1) There is hereby levied and assessed an excise  
252 tax upon each case of alcoholic beverages sold by the holder of a  
253 wholesale alcoholic beverage distribution permit to be collected  
254 from each retail licensee at the time of sale in accordance with  
255 the following schedule:

- 256 (a) Distilled spirits..... \$2.50 per gallon  
257 (b) Sparkling wine and champagne..... \$1.00 per gallon

258 (c) Other wines, including native  
259 wines..... \$ .35 per gallon

260 (2) (a) In addition to the tax levied by subsection (1) of  
261 this section, and in addition to any other markup collected, the  
262 holder of a wholesale alcoholic beverage distribution permit shall  
263 collect a markup of three percent (3%) on all alcoholic beverages,  
264 as defined in Section 67-1-5, Mississippi Code of 1972, which are  
265 sold by the holder of a wholesale alcoholic beverage distribution  
266 permit. The proceeds of the markup shall be collected by the  
267 holder of a wholesale alcoholic beverage distribution permit from  
268 each purchaser at the time of purchase.

269 \* \* \*

270 (b) The revenue derived from this three percent (3%)  
271 markup remitted to the State Tax Commission shall be deposited by  
272 the State Tax Commission in the State Treasury to the credit of  
273 the "Mental Health Programs Fund," a special fund which is hereby  
274 created in the State Treasury and shall be used by the State  
275 Department of Mental Health for the service programs of the  
276 department. \* \* \*

277 (3) The revenue derived from this tax and markup that is  
278 collected by the holder of a wholesale alcoholic beverage  
279 distribution permit shall be remitted by the holder of the  
280 wholesale alcoholic beverage distribution permit to the State Tax  
281 Commission at times prescribed by the commission.

282 **SECTION 6.** Section 27-71-9, Mississippi Code of 1972, is  
283 amended as follows:

284 27-71-9. The commission may promulgate regulations  
285 authorizing persons holding on-premises retailer's permits for  
286 common carriers, as provided herein, to file periodic reports and  
287 pay a tax based upon the value of alcoholic beverages sold while  
288 in this state \* \* \*.

289 **SECTION 7.** Section 27-71-15, Mississippi Code of 1972, is  
290 amended as follows:



291           27-71-15. Except as otherwise provided in Section 67-9-1 for  
292 the transportation of limited amounts of alcoholic beverages for  
293 the use of an alcohol processing permittee, if transportation  
294 requires passage through a county which has not authorized the  
295 sale of alcoholic beverages, such transportation shall be by a  
296 sealed vehicle. Such seal shall remain unbroken until the vehicle  
297 shall reach the place of business operated by the permittee. The  
298 operator of any vehicle transporting alcoholic beverages shall  
299 have in his possession an invoice issued by the holder of a  
300 wholesale alcoholic beverage distribution permit at the time of  
301 the wholesale sale covering the merchandise transported by the  
302 vehicle. The commission is authorized to issue regulations  
303 controlling the transportation of alcoholic beverages.

304           When the restrictions imposed by this section and by the  
305 regulation of the commission have not been violated, the person  
306 transporting alcoholic beverages through a county wherein the sale  
307 of alcoholic beverages is prohibited shall not be guilty of  
308 unlawful possession and such merchandise shall be immune from  
309 seizure.

310           **SECTION 8.** Section 27-71-21, Mississippi Code of 1972, is  
311 amended as follows:

312           27-71-21. Before any person shall engage in the business of  
313 manufacturing, distributing or retailing of alcoholic beverages,  
314 he may be required to enter into a bond payable to the State of  
315 Mississippi, conditioned that he will conduct said business  
316 strictly in accordance with the laws of the State of Mississippi,  
317 and that he will comply with the rules and regulations prescribed  
318 by the commission, and pay all taxes due the State of Mississippi.  
319 The amount of bond required of a wholesale distributor shall be  
320 set by the commission; the amount of a bond required of a  
321 manufacturer, not including a producer of native wine, shall not  
322 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount  
323 required of a retailer shall be Five Thousand Dollars (\$5,000.00).

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

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

345 **SECTION 9.** Section 67-1-5, Mississippi Code of 1972, is  
346 amended as follows:

347 67-1-5. For the purposes of this chapter and unless  
348 otherwise required by the context:

349 (a) "Alcoholic beverage" means any alcoholic liquid,  
350 including wines of more than five percent (5%) of alcohol by  
351 weight, capable of being consumed as a beverage by a human being,  
352 but shall not include wine containing five percent (5%) or less of  
353 alcohol by weight and shall not include beer containing not more  
354 than five percent (5%) of alcohol by weight, as provided for in  
355 Section 67-3-5, Mississippi Code of 1972, but shall include native

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

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

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

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

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

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

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

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

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

389           (j) "Division" means the Alcoholic Beverage Control  
390 Division of the State Tax Commission.

391           (k) "Municipality" means any incorporated city or town  
392 of this state.

393           (l) "Hotel" means an establishment within a  
394 municipality, or within a qualified resort area approved as such  
395 by the commission, where, in consideration of payment, food and  
396 lodging are habitually furnished to travelers and wherein are  
397 located at least twenty (20) adequately furnished and completely  
398 separate sleeping rooms with adequate facilities that persons  
399 usually apply for and receive as overnight accommodations. Hotels  
400 in towns or cities of more than twenty-five thousand (25,000)  
401 population are similarly defined except that they must have fifty  
402 (50) or more sleeping rooms. Any such establishment described in  
403 this paragraph with less than fifty (50) beds shall operate one or  
404 more regular dining rooms designed to be constantly frequented by  
405 customers each day. When used in this chapter, the word "hotel"  
406 shall also be construed to include any establishment that meets  
407 the definition of "bed and breakfast inn" as provided in this  
408 section.

409           (m) "Restaurant" means a place which is regularly and  
410 in a bona fide manner used and kept open for the serving of meals  
411 to guests for compensation, which has suitable seating facilities  
412 for guests, and which has suitable kitchen facilities connected  
413 therewith for cooking an assortment of foods and meals commonly  
414 ordered at various hours of the day; the service of such food as  
415 sandwiches and salads only shall not be deemed in compliance with  
416 this requirement. \* \* \*

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

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

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

423 (iii) Maintained by its members through the  
424 payment of annual dues;

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

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

433 (vi) No member, officer, agent or employee of  
434 which is paid, or directly or indirectly receives, in the form of  
435 a salary or other compensation any profit from the distribution or  
436 sale of alcoholic beverages to the club or to members or guests of  
437 the club beyond such salary or compensation as may be fixed and  
438 voted at a proper meeting by the board of directors or other  
439 governing body out of the general revenues of the club.

440 The commission may, in its discretion, waive the five-year  
441 provision of this paragraph. In order to qualify under this  
442 paragraph, a club must file with the commission, at the time of  
443 its application for a license under this chapter, two (2) copies  
444 of a list of the names and residences of its members and similarly  
445 file, within ten (10) days after the election of any additional  
446 member, his name and address. Each club applying for a license  
447 shall also file with the commission at the time of the application  
448 a copy of its articles of association, charter of incorporation,  
449 bylaws or other instruments governing the business and affairs  
450 thereof.

451 (o) "Qualified resort area" means any area or locality  
452 outside of the limits of incorporated municipalities in this state

453 commonly known and accepted as a place which regularly and  
454 customarily attracts tourists, vacationists and other transients  
455 because of its historical, scenic or recreational facilities or  
456 attractions, or because of other attributes which regularly and  
457 customarily appeal to and attract tourists, vacationists and other  
458 transients in substantial numbers; however, no area or locality  
459 shall so qualify as a resort area until it has been duly and  
460 properly approved as such by the commission.

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

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

476 (iii) The term includes:

477 1. The clubhouses associated with the state  
478 park golf courses at the Lefleur's Bluff State Park, the John Kyle  
479 State Park, the Percy Quin State Park and the Hugh White State  
480 Park; and

481 2. The clubhouse and associated golf course  
482 where the golf course is adjacent to one or more planned  
483 residential developments and the golf course and all such  
484 developments collectively include at least seven hundred fifty  
485 (750) acres and at least four hundred (400) residential units.

486           The status of these clubhouses and golf courses as qualified  
487 resort areas does not require any declaration of same by the  
488 commission.

489           (p) "Native wine" means any product, produced in  
490 Mississippi for sale, having an alcohol content not to exceed  
491 twenty-one percent (21%) by weight and made in accordance with  
492 revenue laws of the United States, which shall be obtained  
493 primarily from the alcoholic fermentation of the juice of ripe  
494 grapes, fruits, berries or vegetables grown and produced in  
495 Mississippi; provided that bulk, concentrated or fortified wines  
496 used for blending may be produced without this state and used in  
497 producing native wines. The commission shall adopt and promulgate  
498 rules and regulations to permit a producer to import such bulk  
499 and/or fortified wines into this state for use in blending with  
500 native wines without payment of any excise tax that would  
501 otherwise accrue thereon.

502           (q) "Native winery" means any place or establishment  
503 within the State of Mississippi where native wine is produced in  
504 whole or in part for sale.

505           (r) "Bed and breakfast inn" means an establishment  
506 within a municipality where in consideration of payment, breakfast  
507 and lodging are habitually furnished to travelers and wherein are  
508 located not less than eight (8) and not more than nineteen (19)  
509 adequately furnished and completely separate sleeping rooms with  
510 adequate facilities, that persons usually apply for and receive as  
511 overnight accommodations; however, such restriction on the minimum  
512 number of sleeping rooms shall not apply to establishments on the  
513 National Register of Historic Places. No place shall qualify as a  
514 bed and breakfast inn under this chapter unless on the date of the  
515 initial application for a license under this chapter more than  
516 fifty percent (50%) of the sleeping rooms are located in a  
517 structure formerly used as a residence.

518           (s) "Wholesale alcoholic beverage distributor" means a  
519 person engaged in purchasing, transporting and storing alcoholic  
520 beverages within the State of Mississippi and selling at wholesale  
521 alcoholic beverages to permittees who are authorized to sell  
522 alcoholic beverages at retail.

523           **SECTION 10.** Section 67-1-9, Mississippi Code of 1972, is  
524 amended as follows:

525           67-1-9. (1) It shall be unlawful for any person to  
526 manufacture, distill, brew, sell, possess, import into this state,  
527 export from the state, transport, distribute, warehouse, store,  
528 solicit, take order for, bottle, rectify, blend, treat, mix or  
529 process any alcoholic beverage except as authorized in this  
530 chapter. However, nothing contained herein shall prevent  
531 importers, wineries and distillers of alcoholic beverages from  
532 storing such alcoholic beverages in private bonded warehouses  
533 located within the State of Mississippi, and nothing contained  
534 herein shall prohibit the holder of a wholesale alcoholic beverage  
535 distribution permit from storing alcoholic beverages in private  
536 bonded warehouses located in the State of Mississippi for resale  
537 to authorized permittees. The commission is hereby authorized to  
538 promulgate rules and regulations for the establishment of such  
539 private bonded warehouses and for the control of alcoholic  
540 beverages stored in such warehouses. Additionally, nothing herein  
541 contained shall prevent any duly licensed practicing physician or  
542 dentist from possessing or using alcoholic liquor in the strict  
543 practice of his profession, or prevent any hospital or other  
544 institution caring for sick and diseased persons, from possessing  
545 and using alcoholic liquor for the treatment of bona fide patients  
546 of such hospital or other institution. Any drugstore employing a  
547 licensed pharmacist may possess and use alcoholic liquors in the  
548 combination of prescriptions of duly licensed physicians. The  
549 possession and dispensation of wine by an authorized  
550 representative of any church for the purpose of conducting any



551 bona fide rite or religious ceremony conducted by such church  
552 shall not be prohibited by this chapter.

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

555 (a) By a fine of not less than One Hundred Dollars  
556 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by  
557 imprisonment in the county jail not less than one (1) week nor  
558 more than three (3) months, or both, for the first conviction  
559 under this section.

560 (b) By a fine of not less than One Hundred Dollars  
561 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
562 imprisonment in the county jail not less than sixty (60) days, nor  
563 more than six (6) months, or both fine and imprisonment, for the  
564 second conviction for violating this section.

565 (c) By a fine of not less than One Hundred Dollars  
566 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
567 imprisonment in the State Penitentiary not less than one (1) year,  
568 nor more than five (5) years, or both fine and imprisonment, for  
569 conviction the third time under this section for the violation  
570 thereof after having been twice convicted of its violation.

571 **SECTION 11.** Section 67-1-37, Mississippi Code of 1972, is  
572 amended as follows:

573 **[Until July 1, 2005, this section will read as follows:]**

574 67-1-37. The State Tax Commission, under its duties and  
575 powers with respect to the Alcoholic Beverage Control Division  
576 therein, shall have the following powers, functions and duties:

577 (a) To issue or refuse to issue any permit provided for  
578 by this chapter, or to extend the permit or remit in whole or any  
579 part of the permit monies when the permit cannot be used due to a  
580 natural disaster or act of God.

581 (b) To revoke, suspend or cancel, for violation of or  
582 noncompliance with the provisions of this chapter, or the law  
583 governing the production and sale of native wines, or any lawful

584 rules and regulations of the commission issued hereunder, or for  
585 other sufficient cause, any permit issued by it under the  
586 provisions of this chapter; however, no such permit shall be  
587 revoked, suspended or cancelled except after a hearing of which  
588 the permit holder shall have been given reasonable notice and an  
589 opportunity to be heard. The commission shall be authorized to  
590 suspend the permit of any permit holder for being out of  
591 compliance with an order for support, as defined in Section  
592 93-11-153. The procedure for suspension of a permit for being out  
593 of compliance with an order for support, and the procedure for the  
594 reissuance or reinstatement of a permit suspended for that  
595 purpose, and the payment of any fees for the reissuance or  
596 reinstatement of a permit suspended for that purpose, shall be  
597 governed by Section 93-11-157 or Section 93-11-163, as the case  
598 may be. If there is any conflict between any provision of Section  
599 93-11-157 or Section 93-11-163 and any provision of this chapter,  
600 the provisions of Section 93-11-157 or Section 93-11-163, as the  
601 case may be, shall control.

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

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

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

612 (f) To issue reasonable rules and regulations, not  
613 inconsistent with the federal laws or regulations, requiring  
614 informative labeling of all alcoholic beverages offered for sale  
615 within this state and providing for the standards of fill and  
616 shapes of retail containers of alcoholic beverages; however, such

617 containers shall not contain less than fifty (50) milliliters by  
618 liquid measure.

619 (g) Subject to the provisions of \* \* \* Section  
620 67-1-51(3), to issue rules and regulations governing the issuance  
621 of retail permits for premises located near or around schools,  
622 colleges, universities, churches and other public institutions,  
623 and specifying the distances therefrom within which no such permit  
624 shall be issued. The Alcoholic Beverage Control Division shall  
625 not allow the sale or consumption of alcoholic beverages in or on  
626 the campus of any public school or college, and no alcoholic  
627 beverage shall be for sale or consumed at any public athletic  
628 event at any grammar or high school or any college.

629 (h) To adopt and promulgate, repeal and amend, such  
630 rules, regulations, standards, requirements and orders, not  
631 inconsistent with this chapter or any law of this state or of the  
632 United States, as it deems necessary to control the manufacture,  
633 importation, transportation, distribution and sale of alcoholic  
634 liquor, whether intended for beverage or nonbeverage use in a  
635 manner not inconsistent with the provisions of this chapter or any  
636 other statute, including the native wine laws.

637 (i) To call upon other administrative departments of  
638 the state, county and municipal governments, county and city  
639 police departments and upon prosecuting officers for such  
640 information and assistance as it may deem necessary in the  
641 performance of its duties.

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

648 (k) To inspect, or cause to be inspected, any premises  
649 where alcoholic liquors intended for sale are manufactured,

650 stored, distributed or sold, and to examine or cause to be  
651 examined all books and records pertaining to the business  
652 conducted therein.

653 (l) In the conduct of any hearing authorized to be held  
654 by the commission, to hear testimony and take proof material for  
655 its information in the discharge of its duties under this chapter;  
656 to issue subpoenas, which shall be effective in any part of this  
657 state, requiring the attendance of witnesses and the production of  
658 books and records; to administer or cause to be administered  
659 oaths; and to examine or cause to be examined any witness under  
660 oath. Any court of record, or any judge thereof, may by order  
661 duly entered require the attendance of witnesses and the  
662 production of relevant books subpoenaed by the commission, and  
663 such court or judge may compel obedience to its or his order by  
664 proceedings for contempt.

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

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

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

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

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

689 (r) To enforce the provisions made unlawful by Sections  
690 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

691 (s) To adopt and promulgate rules and regulations  
692 governing the wholesale distribution of alcoholic beverages.

693 **[From and after July 1, 2005, this section will read as**  
694 **follows:]**

695 67-1-37. The State Tax Commission, under its duties and  
696 powers with respect to the Alcoholic Beverage Control Division  
697 therein, shall have the following powers, functions and duties:

698 (a) To issue or refuse to issue any permit provided for  
699 by this chapter, or to extend the permit or remit in whole or any  
700 part of the permit monies when the permit cannot be used due to a  
701 natural disaster or act of God.

702 (b) To revoke, suspend or cancel, for violation of or  
703 noncompliance with the provisions of this chapter, or the law  
704 governing the production and sale of native wines, or any lawful  
705 rules and regulations of the commission issued hereunder, or for  
706 other sufficient cause, any permit issued by it under the  
707 provisions of this chapter; however, no such permit shall be  
708 revoked, suspended or cancelled except after a hearing of which  
709 the permit holder shall have been given reasonable notice and an  
710 opportunity to be heard. The commission shall be authorized to  
711 suspend the permit of any permit holder for being out of  
712 compliance with an order for support, as defined in Section  
713 93-11-153. The procedure for suspension of a permit for being out  
714 of compliance with an order for support, and the procedure for the

715 reissuance or reinstatement of a permit suspended for that  
716 purpose, and the payment of any fees for the reissuance or  
717 reinstatement of a permit suspended for that purpose, shall be  
718 governed by Section 93-11-157 or 93-11-163, as the case may be.  
719 If there is any conflict between any provision of Section  
720 93-11-157 or 93-11-163 and any provision of this chapter, the  
721 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
722 shall control.

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

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

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

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

740 (g) Subject to the provisions of \* \* \* Section  
741 67-1-51(3), to issue rules and regulations governing the issuance  
742 of retail permits for premises located near or around schools,  
743 colleges, universities, churches and other public institutions,  
744 and specifying the distances therefrom within which no such permit  
745 shall be issued. The Alcoholic Beverage Control Division shall  
746 not allow the sale or consumption of alcoholic beverages in or on  
747 the campus of any public school or college, and no alcoholic

748 beverage shall be for sale or consumed at any public athletic  
749 event at any grammar or high school or any college.

750 (h) To adopt and promulgate, repeal and amend, such  
751 rules, regulations, standards, requirements and orders, not  
752 inconsistent with this chapter or any law of this state or of the  
753 United States, as it deems necessary to control the manufacture,  
754 importation, transportation, distribution and sale of alcoholic  
755 liquor, whether intended for beverage or nonbeverage use in a  
756 manner not inconsistent with the provisions of this chapter or any  
757 other statute, including the native wine laws.

758 (i) To call upon other administrative departments of  
759 the state, county and municipal governments, county and city  
760 police departments and upon prosecuting officers for such  
761 information and assistance as it may deem necessary in the  
762 performance of its duties.

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

769 (k) To inspect, or cause to be inspected, any premises  
770 where alcoholic liquors intended for sale are manufactured,  
771 stored, distributed or sold, and to examine or cause to be  
772 examined all books and records pertaining to the business  
773 conducted therein.

774 (l) In the conduct of any hearing authorized to be held  
775 by the commission, to hear testimony and take proof material for  
776 its information in the discharge of its duties under this chapter;  
777 to issue subpoenas, which shall be effective in any part of this  
778 state, requiring the attendance of witnesses and the production of  
779 books and records; to administer or cause to be administered  
780 oaths; and to examine or cause to be examined any witness under

781 oath. Any court of record, or any judge thereof, may by order  
782 duly entered require the attendance of witnesses and the  
783 production of relevant books subpoenaed by the commission, and  
784 such court or judge may compel obedience to its or his order by  
785 proceedings for contempt.

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

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

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

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

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

810 (r) To adopt and promulgate rules and regulations  
811 governing the wholesale distribution of alcoholic beverages.

812 **SECTION 12.** Section 67-1-41, Mississippi Code of 1972, is  
813 amended as follows:



814 67-1-41. \* \* \*

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

821 (2) No alcoholic beverage intended for sale or resale shall  
822 be imported, shipped or brought into this state for delivery to  
823 any person other than as provided in this chapter, or as otherwise  
824 provided by law for native wines.

825 (3) The commission may promulgate rules and regulations  
826 which authorize on-premises retailers to purchase limited amounts  
827 of alcoholic beverages from package retailers and for package  
828 retailers to purchase limited amounts of alcoholic beverages from  
829 other package retailers. The commission shall develop and provide  
830 forms to be completed by the on-premises retailers and the package  
831 retailers verifying the transaction. The completed forms shall be  
832 forwarded to the commission within a period of time prescribed by  
833 the commission.

834 \* \* \*

835 (4) The commission shall maintain all forms to be completed  
836 by applicants necessary for licensure by the commission at all  
837 district offices of the commission.

838 (5) The commission may promulgate rules which authorize the  
839 manufacturer of an alcoholic beverage or wine to import, transport  
840 and furnish or give a sample of alcoholic beverages or wines to  
841 the holders of package retailer's permits, on-premises retailer's  
842 permits, native wine retailer's permits and temporary retailer's  
843 permits who have not previously purchased the brand of that  
844 manufacturer from the commission. For each holder of the  
845 designated permits, the manufacturer may furnish not more than

846 five hundred (500) milliliters of any brand of alcoholic beverage  
847 and not more than three (3) liters of any brand of wine.

848       (6) The commission may promulgate rules disallowing open  
849 product sampling of alcoholic beverages or wines by the holders of  
850 package retailer's permits and permitting open product sampling of  
851 alcoholic beverages by the holders of on-premises retailer's  
852 permits. Permitted sample products shall be plainly identified  
853 "sample" and the actual sampling must occur in the presence of the  
854 manufacturer's representatives during the legal operating hours of  
855 on-premises retailers.

856       (7) The commission may promulgate rules and regulations that  
857 authorize the holder of a research permit to import and purchase  
858 limited amounts of alcoholic beverages from importers, wineries,  
859 distillers and wholesale distributors of alcoholic  
860 beverages \* \* \*. The commission shall develop and provide forms  
861 to be completed by the research permittee verifying each  
862 transaction. The completed forms shall be forwarded to the  
863 commission within a period of time prescribed by the commission.  
864 The records and inventory of alcoholic beverages shall be open to  
865 inspection at any time by the Director of the Alcoholic Beverage  
866 Control Division or any duly authorized agent.

867       **SECTION 13.** Section 67-1-43, Mississippi Code of 1972, is  
868 amended as follows:

869       67-1-43. Any authorized retail distributor who shall  
870 purchase or receive intoxicating liquor from any source except  
871 from the holder of a wholesale alcoholic beverage distribution  
872 permit, unless authorized by rules and regulations of the  
873 commission promulgated under subsection (4) of Section 67-1-41,  
874 shall be guilty of a misdemeanor and upon conviction thereof shall  
875 be punished by a fine of not less than Five Hundred Dollars  
876 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to  
877 which may be added imprisonment in the county jail for not more

878 than six (6) months. Any authorization of such person to sell  
879 intoxicating beverages may be revoked as provided by law.

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

883 **SECTION 14.** Section 67-1-45, Mississippi Code of 1972, is  
884 amended as follows:

885 67-1-45. No manufacturer, rectifier, \* \* \* distiller or  
886 wholesale distributor of intoxicating liquor shall sell or attempt  
887 to sell any such intoxicating liquor, except malt liquor, within  
888 the State of Mississippi, except as authorized in this  
889 chapter. \* \* \* A producer of native wine may sell native wines to  
890 an authorized retail distributor or directly to consumers.

891 Any violation of this section by any manufacturer, rectifier,  
892 or distiller shall be punished by a fine of not less than Five  
893 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars  
894 (\$2,000.00), to which may be added imprisonment in the county jail  
895 not to exceed six (6) months.

896 **SECTION 15.** Section 67-1-51, Mississippi Code of 1972, is  
897 amended as follows:

898 67-1-51. (1) Permits which may be issued by the commission  
899 shall be as follows:

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

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

907 Class 1. Distiller's and/or rectifier's permit, which shall  
908 authorize the holder thereof to operate a distillery for the  
909 production of distilled spirits by distillation or redistillation  
910 and/or to operate a rectifying plant for the purifying, refining,

911 mixing, blending, flavoring or reducing in proof of distilled  
912 spirits and alcohol.

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

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

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

933               (c) **On-premises retailer's permit.** An on-premises  
934 retailer's permit shall authorize the sale of alcoholic beverages,  
935 including native wines, for consumption on the licensed premises  
936 only. Such a permit shall issue only to qualified hotels,  
937 restaurants and clubs, and to common carriers with adequate  
938 facilities for serving passengers. In resort areas, whether  
939 inside or outside of a municipality, the commission may, in its  
940 discretion, issue on-premises retailer's permits to such  
941 establishments as it deems proper. An on-premises retailer's  
942 permit when issued to a common carrier shall authorize the sale  
943 and serving of alcoholic beverages aboard any licensed vehicle

944 while moving through any county of the state; however, the sale of  
945 such alcoholic beverages shall not be permitted while such vehicle  
946 is stopped in a county that has not legalized such sales.

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

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

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

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

973           Class 1. A temporary one-day permit may be issued to bona  
974 fide nonprofit civic or charitable organizations authorizing the  
975 sale of alcoholic beverages, including native wine, for  
976 consumption on the premises described in the temporary permit

977 only. Class 1 permits may be issued only to applicants  
978 demonstrating to the commission, by affidavit submitted ten (10)  
979 days prior to the proposed date or such other time as the  
980 commission may determine, that they meet the qualifications of  
981 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57  
982 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
983 obtain all alcoholic beverages from package retailers located in  
984 the county in which the temporary permit is issued. Alcoholic  
985 beverages remaining in stock upon expiration of the temporary  
986 permit may be returned by the permittee to the package retailer  
987 for a refund of the purchase price upon consent of the package  
988 retailer or may be kept by the permittee exclusively for personal  
989 use and consumption, subject to all laws pertaining to the illegal  
990 sale and possession of alcoholic beverages. The commission,  
991 following review of the affidavit and the requirements of the  
992 applicable statutes and regulations, may issue the permit.

993 Class 2. A temporary permit, not to exceed seventy (70)  
994 days, may be issued to prospective permittees seeking to transfer  
995 a permit authorized in either paragraph (b) or (c) of this  
996 section. A Class 2 permit may be issued only to applicants  
997 demonstrating to the commission, by affidavit, that they meet the  
998 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),  
999 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The  
1000 commission, following a preliminary review of the affidavit and  
1001 the requirements of the applicable statutes and regulations, may  
1002 issue the permit.

1003 Class 2 temporary permittees must purchase their alcoholic  
1004 beverages directly from the commission or, with approval of the  
1005 commission, purchase the remaining stock of the previous  
1006 permittee. If the proposed applicant of a Class 1 or Class 2  
1007 temporary permit falsifies information contained in the  
1008 application or affidavit, the applicant shall never again be

1009 eligible for a retail alcohol beverage permit and shall be subject  
1010 to prosecution for perjury.

1011           (g) **Caterer's permit.** A caterer's permit shall permit  
1012 the purchase of alcoholic beverages by a person engaging in  
1013 business as a caterer and the resale of alcoholic beverages by  
1014 such person in conjunction with such catering business. No person  
1015 shall qualify as a caterer unless forty percent (40%) or more of  
1016 the revenue derived from such catering business shall be from the  
1017 serving of prepared food and not from the sale of alcoholic  
1018 beverages and unless such person has obtained a permit for such  
1019 business from the Department of Health. A caterer's permit shall  
1020 not authorize the sale of alcoholic beverages on the premises of  
1021 the person engaging in business as a caterer; however, the holder  
1022 of an on-premises retailer's permit may hold a caterer's permit.  
1023 All sales of alcoholic beverages by holders of a caterer's permit  
1024 shall be made at the location being catered by the caterer, and  
1025 such sales may be made only for consumption at the catered  
1026 location. Such sales shall be made pursuant to any other  
1027 conditions and restrictions which apply to sales made by  
1028 on-premises retail permittees. The holder of a caterer's permit  
1029 or his employees shall remain at the catered location as long as  
1030 alcoholic beverages are being sold pursuant to the permit issued  
1031 under this paragraph (g), and the permittee and employees at such  
1032 location shall each have personal identification cards issued by  
1033 the Alcoholic Beverage Control Division of the commission. No  
1034 unsold alcoholic beverages may be left at the catered location by  
1035 the permittee upon the conclusion of his business at that  
1036 location. Appropriate law enforcement officers and Alcoholic  
1037 Beverage Control Division personnel may enter a catered location  
1038 on private property in order to enforce laws governing the sale or  
1039 serving of alcoholic beverages.

1040           (h) **Research permit.** A research permit shall authorize  
1041 the holder thereof to operate a research facility for the

1042 professional research of alcoholic beverages. Such permit shall  
1043 authorize the holder of the permit to import and purchase limited  
1044 amounts of alcoholic beverages from \* \* \* importers, wineries,  
1045 distillers and distributors of alcoholic beverages for  
1046 professional research.

1047 (i) **Alcohol processing permit.** An alcohol processing  
1048 permit shall authorize the holder thereof to purchase, transport  
1049 and possess alcoholic beverages for the exclusive use in cooking,  
1050 processing or manufacturing products which contain alcoholic  
1051 beverages as an integral ingredient. An alcohol processing permit  
1052 shall not authorize the sale of alcoholic beverages on the  
1053 premises of the person engaging in the business of cooking,  
1054 processing or manufacturing products which contain alcoholic  
1055 beverages. The amounts of alcoholic beverages allowed under an  
1056 alcohol processing permit shall be set by the commission.

1057 (j) **Wholesale alcoholic beverage distribution permit.**  
1058 A wholesale alcoholic beverage distribution permit shall be issued  
1059 only to private entities who are granted the authority to  
1060 distribute alcoholic beverages at retail pursuant to Section 2 of  
1061 House Bill No. 596, 2005 Regular Session. Such permit shall  
1062 authorize the holder thereof to purchase for resale, to store and  
1063 to distribute to authorized permittees, alcoholic beverages. Such  
1064 permit shall entitle the holder thereof to purchase alcoholic  
1065 beverages from any manufacturer or importer for the purpose of  
1066 resale in this state to permittees that are authorized to sell  
1067 alcoholic beverages at retail. The holder of a wholesale  
1068 alcoholic beverage distribution permit may transport alcoholic  
1069 beverages into the State of Mississippi and store such alcoholic  
1070 beverages in a private bonded warehouse of such permittee's choice  
1071 for sale to permittees who are authorized to sell alcoholic  
1072 beverages at retail. The holder of a wholesale alcoholic beverage  
1073 distribution permit may solicit orders for alcoholic beverages  
1074 from any permittee that is authorized to sell alcoholic beverages



1075 at retail. Records of such orders shall be kept and maintained  
1076 for a period of three (3) years after the order is taken and shall  
1077 be subject to inspection by the division at any time without prior  
1078 notice.

1079 (2) Except as otherwise provided in subsection (4) of this  
1080 section, retail permittees may hold more than one (1) retail  
1081 permit, at the discretion of the commission.

1082 (3) Except as otherwise provided in this subsection, no  
1083 authority shall be granted to any person to manufacture, sell or  
1084 store for sale any intoxicating liquor as specified in this  
1085 chapter within four hundred (400) feet of any church, school,  
1086 kindergarten or funeral home. However, within an area zoned  
1087 commercial or business, such minimum distance shall be not less  
1088 than one hundred (100) feet.

1089 A church or funeral home may waive the distance restrictions  
1090 imposed in this subsection in favor of allowing issuance by the  
1091 commission of a permit, pursuant to subsection (1) of this  
1092 section, to authorize activity relating to the manufacturing, sale  
1093 or storage of alcoholic beverages which would otherwise be  
1094 prohibited under the minimum distance criterion. Such waiver  
1095 shall be in written form from the owner, the governing body, or  
1096 the appropriate officer of the church or funeral home having the  
1097 authority to execute such a waiver, and the waiver shall be filed  
1098 with and verified by the commission before becoming effective.

1099 The distance restrictions imposed in this subsection shall  
1100 not apply to the sale or storage of alcoholic beverages at a bed  
1101 and breakfast inn listed in the National Register of Historic  
1102 Places.

1103 (4) No person, either individually or as a member of a firm,  
1104 partnership or association, or as a stockholder, officer or  
1105 director in a corporation, shall own or control any interest in  
1106 more than one (1) package retailer's permit, nor shall such  
1107 person's spouse, if living in the same household of such person,

1108 any relative of such person, if living in the same household of  
1109 such person, or any other person living in the same household with  
1110 such person own any interest in any other package retailer's  
1111 permit.

1112         **SECTION 16.** Section 67-1-77, Mississippi Code of 1972, is  
1113 amended as follows:

1114         67-1-77. (1) It shall be unlawful for the holder of a  
1115 manufacturer's permit, wholesale alcoholic beverage distribution  
1116 permit, or anyone connected with the business of such holder, or  
1117 for any other distiller, wine manufacturer, wholesale distributor,  
1118 brewer, rectifier, blender or bottler, to have any financial  
1119 interest in any premises upon which any alcoholic beverage is sold  
1120 at retail by any permittee, or in the business conducted by such  
1121 permittee; provided, however, the holder of a manufacturer's or  
1122 wholesale alcoholic beverage distribution permit may contract for  
1123 the service of a representative in the area of governmental  
1124 affairs on a part-time basis with a holder of an on-premises  
1125 permit.

1126         (2) It shall \* \* \* be unlawful for any such person, or  
1127 anyone connected with his, its, or their business to lend any  
1128 money or make any gift or offer any gratuity, to any retail  
1129 permittee, except as authorized by regulations of the commission,  
1130 to the holder of any retail permit issued under the provisions of  
1131 this chapter. Except as above provided, no retail permittee shall  
1132 accept, receive, or make use of any money or gift furnished by any  
1133 such person, or become indebted to such person except for the  
1134 purchase of alcoholic beverages.

1135         (3) The commission shall not prohibit the furnishing of  
1136 advertising specialties, printed materials, or other things having  
1137 nominal value to a retail permittee. This section shall not be  
1138 construed to prohibit the possession by any person of advertising  
1139 specialties, printed materials, or other things having nominal  
1140 value furnished by a retail permittee.

1141 (4) Any person violating the provisions of this section  
1142 shall, upon conviction, be punished by a fine of not more than  
1143 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more  
1144 than two (2) years, or by both such fine and imprisonment, in the  
1145 discretion of the court.

1146 **SECTION 17.** Section 67-1-79, Mississippi Code of 1972, is  
1147 amended as follows:

1148 67-1-79. (1) Each delivery of any alcoholic beverage to a  
1149 retail permittee shall be accompanied by an invoice of sale or  
1150 delivery slip which shall bear as its date the date of delivery of  
1151 such alcoholic beverage.

1152 (2) The holder of a wholesale alcoholic beverage  
1153 distribution permit shall deliver alcoholic beverages ordered by  
1154 retail permittees within three (3) days of the receipt of an order  
1155 made by the retail permittee.

1156 **SECTION 18.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,  
1157 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the  
1158 State Tax Commission to request the State Bond Commission to  
1159 provide sufficient funds required to maintain an adequate  
1160 alcoholic beverage inventory, require the State Tax Commission to  
1161 purchase directly from the manufacturer, provide penalties for  
1162 selling alcoholic beverages not identified as having been  
1163 purchased by the commission, require distillers and distributors  
1164 dealing with the State Tax Commission to register with the  
1165 Secretary of State and require distillers having contracts with  
1166 the State Tax Commission to file statements of salary expenses,  
1167 are repealed.

1168 **SECTION 19.** This act shall take effect and be in force from  
1169 and after July 1, 2007.