

By: Representatives Dedeaux, Bailey, Clarke, Hudson, Robinson (63rd), Rogers (61st) To: Ways and Means

HOUSE BILL NO. 817

1 AN ACT AMEND SECTION 27-71-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE REFERENCE TO WINE IN THE PROVISION LEVYING A PRIVILEGE
3 TAX FOR ON-PREMISES RETAILER'S PERMITS FOR WINE TO CONFORM TO THE
4 DESCRIPTION OF WINE PROVIDED IN THE DEFINITION OF THE TERM
5 "ALCOHOLIC BEVERAGE" UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE
6 CONTROL LAW; AND FOR RELATED PURPOSES.

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

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

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

- 16 (a) Except as otherwise provided in this subsection
17 (1), manufacturer's permit, Class 1, distiller's and/or
18 rectifier's..... \$4,500.00
19 (b) Manufacturer's permit, Class 2, wine manufacturer
20 \$1,800.00
21 (c) Manufacturer's permit, Class 3, native wine
22 manufacturer per ten thousand (10,000) gallons or part thereof
23 produced..... \$ 10.00
24 (d) Native wine retailer's permit..... \$ 50.00
25 (e) Package retailer's permit, each..... \$ 900.00
26 (f) On-premises retailer's permit, except for clubs and
27 common carriers, each..... \$ 450.00

28 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
29 for each additional Five Thousand Dollars (\$5,000.00), or fraction
30 thereof..... \$ 225.00

31 (g) On-premises retailer's permit for wine of more than
32 five percent (5%) of alcohol by weight (each)..... \$ 225.00

33 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
34 for each additional Five Thousand Dollars (\$5,000.00), or fraction
35 thereof..... \$ 225.00

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

37 On purchases exceeding Five Thousand Dollars (\$5,000.00)
38 and for each additional Five Thousand Dollars (\$5,000.00), or
39 fraction thereof..... \$ 225.00

40 (i) On-premises retailer's permit for common carriers,
41 per car, plane, or other vehicle..... \$ 120.00

42 (j) Solicitor's permit, regardless of any other
43 provision of law, solicitor's permits shall be issued only in the
44 discretion of the commission..... \$ 100.00

45 (k) Filing fee for each application except for an
46 employee identification card..... \$ 25.00

47 (l) Temporary permit, Class 1, each..... \$ 10.00

48 (m) Temporary permit, Class 2, each..... \$ 50.00

49 On-premises purchases exceeding Five Thousand Dollars
50 (\$5,000.00) and for each additional Five Thousand Dollars
51 (\$5,000.00), or fraction thereof..... \$ 225.00

52 (n) (i) Caterer's permit..... \$ 600.00

53 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
54 for each additional Five Thousand Dollars (\$5,000.00), or fraction
55 thereof..... \$ 250.00

56 (ii) Caterer's permit for holders of on-premises
57 retailer's permit..... \$ 150.00

58 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
59 for each additional Five Thousand Dollars (\$5,000.00), or fraction
60 thereof..... \$ 250.00

- 61 (o) Research permit..... \$ 100.00
- 62 (p) Filing fee for each application for an employee
- 63 identification card..... \$ 5.00

64 If a person approved for a manufacturer's permit, Class 1,
65 distiller's permit produces a product with at least fifty-one
66 percent (51%) of the finished product by volume being obtained
67 from alcoholic fermentation of grapes, fruits, berries, honey
68 and/or vegetables grown and produced in Mississippi, and produces
69 all of such product by using not more than one (1) still having a
70 maximum capacity of one hundred fifty (150) liters, the annual
71 privilege license tax for such a permit shall be Ten Dollars
72 (\$10.00) per ten thousand (10,000) gallons or part thereof
73 produced. Bulk, concentrated or fortified ingredients used for
74 blending may be produced outside this state and used in producing
75 such a product.

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

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

90 Any person who has paid the additional privilege license tax
91 imposed by item (f), (g), (h), (m) or (n) of this subsection, and
92 whose permit is renewed, may add any unused fraction of Five
93 Thousand Dollars (\$5,000.00) purchases to the first Five Thousand

94 Dollars (\$5,000.00) purchases authorized by the renewal permit,
95 and no additional license tax will be required until purchases
96 exceed the sum of the two (2) figures.

97 (2) There is imposed and shall be collected from each
98 permittee, except a common carrier, solicitor, holder of an
99 employee identification card or a temporary permittee, by the
100 commission, an additional license tax equal to the amounts imposed
101 under subsection (1) of this section for the privilege of doing
102 business within any municipality or county in which the licensee
103 is located. If the licensee is located within a municipality, the
104 commission shall pay the amount of additional license tax to the
105 municipality, and if outside a municipality the commission shall
106 pay the additional license tax to the county in which the licensee
107 is located. Payments by the commission to the respective local
108 government subdivisions shall be made once each month for any
109 collections during the preceding month.

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

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

121 (5) If any person shall engage or continue in any business
122 which is taxable hereunder without having paid the tax as provided
123 herein, such person shall be liable for the full amount of such
124 tax plus a penalty thereon equal to the amount thereof, and, in
125 addition, shall be punished by a fine of not more than One
126 Thousand Dollars (\$1,000.00), or by imprisonment in the county

127 jail for a term of not more than six (6) months, or by both such
128 fine and imprisonment, in the discretion of the court.

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

136 **SECTION 2.** This act shall take effect and be in force from
137 and after July 1, 2005.