

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1256

1 AN ACT TO AMEND SECTION 67-5-11, MISSISSIPPI CODE OF 1972, TO
2 ALLOW NATIVE WINERIES TO SELL NATIVE WINES DIRECTLY TO CONSUMERS
3 IN THIS STATE ONLY AT THE LOCATION OF THE NATIVE WINERY OR ITS
4 IMMEDIATE VICINITY; TO PROHIBIT DIRECT SALES OF NATIVE WINES BY
5 NATIVE WINERIES TO RETAIL PERMITTEES; TO AMEND SECTIONS 67-5-13,
6 67-1-41, 67-1-43 AND 67-1-45, MISSISSIPPI CODE OF 1972, IN
7 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 67-5-11, Mississippi Code of 1972, is
10 amended as follows:

11 67-5-11. * * * Every native winery is authorized to make
12 sales:

13 (a) To the commission;

14 (b) Directly to consumers at the location of the native
15 winery or its immediate vicinity; or

16 (c) To any producer, manufacturer, wholesaler, retailer
17 or consumer located outside the State of Mississippi who is
18 authorized by law to purchase wine.

19 * * *

20 SECTION 2. Section 67-5-13, Mississippi Code of 1972, is
21 amended as follows:

22 67-5-13. (1) Upon every producer holding a permit for the
23 production of native wine, there is hereby levied and imposed for
24 each location for the privilege of engaging and continuing in this
25 state in the production of native wine an annual privilege license
26 tax in an amount equal to Ten Dollars (\$10.00) for each ten
27 thousand (10,000) gallons, or any part thereof, of native wine
28 produced by the winery.

29 (2) There is hereby levied and assessed an excise tax upon
30 each case of native wine sold by a producer to any source to be
31 collected from the producer in the amount provided for in Section
32 27-71-7, Mississippi Code of 1972. However, native wine produced
33 in Mississippi for export and sale without this state shall not be
34 subject to said excise tax, nor shall such tax accrue or be
35 collected on native wines dispensed, as free samples in quantities
36 of not more than six (6) ounces, in the tasting room of a native
37 winery.

38 (3) The privilege tax imposed by subsection (1) of this
39 section shall be collected in the same manner as presently
40 provided by law for the collection of other alcoholic beverages.
41 The excise tax imposed by subsection (2) of this section shall be
42 reported monthly by the producer to the commission on all sales
43 made in Mississippi to the commission * * * or consumers * * *,
44 along with a statement of gallonage produced during that month,
45 and the producer shall remit the tax due and owing with each
46 report. The producer shall also include in the report a statement
47 of gallonage sold and exported for sale outside this state.

48 (4) All taxes levied by and collected under this section
49 shall be deposited in the General Fund.

50 **SECTION 3.** Section 67-1-41, Mississippi Code of 1972, is
51 amended as follows:

52 67-1-41. (1) The State Tax Commission is hereby created a
53 wholesale distributor and seller of alcoholic beverages, not
54 including malt liquors, within the State of Mississippi. It is
55 granted the sole right to import and sell such intoxicating
56 liquors at wholesale within the state, and no person who is
57 granted the right to sell, distribute or receive such liquors at
58 retail shall purchase any such intoxicating liquors from any
59 source other than the commission except as authorized in
60 subsections (4) and (9) of this section and Section 67-5-11,
61 provided that retailers and consumers may purchase native wines

62 directly from the producer. The commission may establish
63 warehouses, purchase intoxicating liquors in such quantities and
64 from such sources as it may deem desirable and sell the same to
65 authorized permittees within the state including, at the
66 discretion of the commission, any retail distributors operating
67 within any military post or qualified resort areas within the
68 boundaries of the state, keeping a correct and accurate record of
69 all such transactions and exercising such control over the
70 distribution of alcoholic beverages as seem right and proper in
71 keeping with the provisions or purposes of this chapter.

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

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

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

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

89 (4) The commission may promulgate rules and regulations
90 which authorize on-premises retailers to purchase limited amounts
91 of alcoholic beverages from package retailers and for package
92 retailers to purchase limited amounts of alcoholic beverages from
93 other package retailers. The commission shall develop and provide
94 forms to be completed by the on-premises retailers and the package

95 retailers verifying the transaction. The completed forms shall be
96 forwarded to the commission within a period of time prescribed by
97 the commission.

98 (5) The commission may promulgate rules which authorize the
99 holder of a package retailer's permit to permit individual retail
100 purchasers of packages of alcoholic beverages to return, for
101 exchange, credit or refund, limited amounts of original sealed and
102 unopened packages of alcoholic beverages purchased by such
103 individual from the package retailer.

104 (6) The commission shall maintain all forms to be completed
105 by applicants necessary for licensure by the commission at all
106 district offices of the commission.

107 (7) The commission may promulgate rules which authorize the
108 manufacturer of an alcoholic beverage or wine to import, transport
109 and furnish or give a sample of alcoholic beverages or wines to
110 the holders of package retailer's permits, on-premises retailer's
111 permits, native wine retailer's permits and temporary retailer's
112 permits who have not previously purchased the brand of that
113 manufacturer from the commission. For each holder of the
114 designated permits, the manufacturer may furnish not more than
115 five hundred (500) milliliters of any brand of alcoholic beverage
116 and not more than three (3) liters of any brand of wine.

117 (8) The commission may promulgate rules disallowing open
118 product sampling of alcoholic beverages or wines by the holders of
119 package retailer's permits and permitting open product sampling of
120 alcoholic beverages by the holders of on-premises retailer's
121 permits. Permitted sample products shall be plainly identified
122 "sample" and the actual sampling must occur in the presence of the
123 manufacturer's representatives during the legal operating hours of
124 on-premises retailers.

125 (9) The commission may promulgate rules and regulations that
126 authorize the holder of a research permit to import and purchase
127 limited amounts of alcoholic beverages from importers, wineries

128 and distillers of alcoholic beverages or from the commission. The
129 commission shall develop and provide forms to be completed by the
130 research permittee verifying each transaction. The completed
131 forms shall be forwarded to the commission within a period of time
132 prescribed by the commission. The records and inventory of
133 alcoholic beverages shall be open to inspection at any time by the
134 Director of the Alcoholic Beverage Control Division or any duly
135 authorized agent.

136 **SECTION 4.** Section 67-1-43, Mississippi Code of 1972, is
137 amended as follows:

138 67-1-43. Any authorized retail distributor who shall
139 purchase or receive intoxicating liquor from any source except
140 from the commission, unless authorized by rules and regulations of
141 the commission promulgated under subsection (4) of Section
142 67-1-41, shall be guilty of a misdemeanor and upon conviction
143 thereof shall be punished by a fine of not less than Five Hundred
144 Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00),
145 to which may be added imprisonment in the county jail for not more
146 than six (6) months. Any authorization of such person to sell
147 intoxicating beverages may be revoked as provided by law.

148 * * *

149 **SECTION 5.** Section 67-1-45, Mississippi Code of 1972, is
150 amended as follows:

151 67-1-45. No manufacturer, rectifier, or distiller of
152 intoxicating liquor shall sell or attempt to sell any such
153 intoxicating liquor, except malt liquor, within the State of
154 Mississippi, except to the commission, or to the holder of a
155 research permit as provided in Section 67-1-41. However, a
156 producer of native wine may sell native wines to the
157 commission * * * or directly to consumers as provided for in
158 Section 67-5-11.

159 Any violation of this section by any manufacturer, rectifier,
160 or distiller shall be punished by a fine of not less than Five

161 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
162 (\$2,000.00), to which may be added imprisonment in the county jail
163 not to exceed six (6) months.

164 **SECTION 6.** This act shall take effect and be in force from
165 and after July 1, 2005.