

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2688

1 AN ACT TO REQUIRE THE STATE TAX COMMISSION TO ENTER INTO
2 CONTRACTS WITH PRIVATE ENTITIES FOR THE FRANCHISE OF, AND THE
3 FRANCHISE OF ALL RIGHTS ASSOCIATED WITH, THE WHOLESALE
4 DISTRIBUTION OF ALCOHOLIC BEVERAGES IN THIS STATE; TO PROVIDE THAT
5 THE STATE TAX COMMISSION SHALL AWARD NOT MORE THAN FOUR FRANCHISES
6 FOR THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES IN THIS
7 STATE; TO PROVIDE THAT ONLY PRIVATE ENTITIES THAT ARE AWARDED
8 FRANCHISES IN THIS STATE MAY DISTRIBUTE ALCOHOLIC BEVERAGES AT
9 WHOLESALE IN THIS STATE; TO PROVIDE THAT ANY CONTRACT ENTERED INTO
10 WITH A PRIVATE ENTITY FOR THE WHOLESALE DISTRIBUTION OF ALCOHOLIC
11 BEVERAGES SHALL PROVIDE FOR A NEGOTIATED ANNUAL ROYALTY PAYMENT IN
12 AN AMOUNT OF NOT LESS THAN 10% OF THE GROSS WHOLESALE SALES OF
13 ALCOHOLIC BEVERAGES BY THE OWNER OF THE FRANCHISE AND SHALL
14 PROVIDE PENALTIES FOR FAILURE TO MAKE ANY REQUIRED PAYMENTS TO THE
15 STATE TAX COMMISSION OR THE STATE OR FOR OTHERWISE VIOLATING THE
16 TERMS OF THE CONTRACT; TO PROVIDE THAT THE OWNER OF A FRANCHISE
17 MAY SELL THE FRANCHISE TO ANOTHER PRIVATE ENTITY ONLY UPON
18 APPROVAL OF THE SALE BY THE STATE TAX COMMISSION; TO PROVIDE THAT
19 AMOUNTS PAID BY A PRIVATE ENTITY FOR THE WHOLESALE DISTRIBUTION OF
20 ALCOHOLIC BEVERAGES AND ANNUAL ROYALTY PAYMENTS SHALL BE DEPOSITED
21 INTO THE STATE GENERAL FUND; TO MAKE IT UNLAWFUL FOR A
22 MANUFACTURER OF ALCOHOLIC BEVERAGES, OR ANYONE CONNECTED WITH THE
23 BUSINESS OF A MANUFACTURER OF ALCOHOLIC BEVERAGES, TO HAVE ANY
24 FINANCIAL INTEREST IN A FRANCHISE AWARDED UNDER THIS ACT, OR IN
25 THE BUSINESS CONDUCTED BY THE HOLDER OF SUCH A FRANCHISE; TO MAKE
26 IT UNLAWFUL FOR A MANUFACTURER OF ALCOHOLIC BEVERAGES, OR ANYONE
27 CONNECTED WITH A MANUFACTURER'S BUSINESS TO LEND ANY MONEY OR MAKE
28 ANY GIFT OR OFFER ANY GRATUITY TO THE HOLDER OF A FRANCHISE
29 AWARDED UNDER THIS ACT OR TO AN EMPLOYEE OF THE HOLDER OF SUCH A
30 FRANCHISE, EXCEPT AS AUTHORIZED BY REGULATIONS OF THE COMMISSION;
31 TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING
32 ON BEHALF OF THE STATE TAX COMMISSION, TO SELL ALL REAL PROPERTY
33 OWNED BY THE STATE AND UTILIZED BY THE STATE TAX COMMISSION IN
34 CONNECTION WITH THE WHOLESALE DISTRIBUTION OF ALCOHOLIC BEVERAGES
35 BY THE COMMISSION; TO AMEND SECTIONS 25-9-155, 27-71-5, 27-71-7,
36 27-71-9, 27-71-15, 27-71-21, 67-1-5, 67-1-9, 67-1-37, 67-1-41,
37 67-1-43, 67-1-45, 67-1-51, 67-1-77 AND 67-1-79, MISSISSIPPI CODE
38 OF 1972, TO AUTHORIZE THE DISTRIBUTION OF ALCOHOLIC BEVERAGES BY
39 PRIVATE ENTITIES; TO PROVIDE THE ANNUAL PRIVILEGE LICENSE TAX FOR
40 A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE FOR
41 AN EXCISE TAX ON ALCOHOLIC BEVERAGES SOLD BY THE HOLDER OF A
42 WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT AND THE
43 COLLECTION OF SUCH TAX; TO REQUIRE THE OPERATOR OF A VEHICLE
44 TRANSPORTING ALCOHOLIC BEVERAGES TO POSSESS AN INVOICE ISSUED BY
45 THE HOLDER OF A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT;
46 TO PROVIDE THAT PERSONS ENGAGED IN THE BUSINESS OF DISTRIBUTING
47 ALCOHOLIC BEVERAGES AT WHOLESALE MAY BE REQUIRED TO ENTER INTO A
48 BOND PAYABLE TO THE STATE OF MISSISSIPPI CONDITIONED THAT SUCH
49 DISTRIBUTOR WILL CONDUCT HIS BUSINESS LAWFULLY; TO AUTHORIZE THE
50 STATE TAX COMMISSION TO PROMULGATE RULES AND REGULATIONS GOVERNING
51 THE PURCHASE FOR THE WHOLESALE RESALE, DISTRIBUTION AND SALE OF
52 ALCOHOLIC BEVERAGES; TO PROVIDE THAT THE STATE TAX COMMISSION

53 SHALL NOT BE A WHOLESALE DISTRIBUTOR OF ALCOHOLIC BEVERAGES; TO
54 AUTHORIZE THE STATE TAX COMMISSION TO ISSUE A WHOLESALE ALCOHOLIC
55 BEVERAGE DISTRIBUTION PERMIT; TO PROVIDE THAT SUCH PERMITS SHALL
56 AUTHORIZE THE HOLDER THEREOF TO PURCHASE ALCOHOLIC BEVERAGES FROM
57 ANY MANUFACTURER OR IMPORTER, TRANSPORT ALCOHOLIC BEVERAGES INTO
58 THE STATE OF MISSISSIPPI, STORE ALCOHOLIC BEVERAGES AT THE PRIVATE
59 BONDED WAREHOUSE OF SUCH PERMITTEE'S CHOICE AND SOLICIT ORDERS
60 FROM AND SELL ALCOHOLIC BEVERAGES TO PERMITTEES WHO ARE AUTHORIZED
61 TO SELL ALCOHOLIC BEVERAGES AT RETAIL; TO PROVIDE THAT RECORDS OF
62 ORDERS MUST BE KEPT FOR THREE YEARS AND SHALL BE SUBJECT TO
63 INSPECTION BY THE ALCOHOLIC BEVERAGE CONTROL DIVISION AT ANY TIME;
64 TO REQUIRE THE HOLDER OF A WHOLESALE ALCOHOLIC BEVERAGE
65 DISTRIBUTION PERMIT TO DELIVER ALCOHOLIC BEVERAGES WITHIN THREE
66 DAYS OF RECEIPT OF THE ORDER; TO MAKE IT UNLAWFUL FOR THE HOLDER
67 OF A WHOLESALE ALCOHOLIC BEVERAGE DISTRIBUTION PERMIT TO HAVE A
68 FINANCIAL INTEREST IN ANY PREMISES UPON WHICH ANY ALCOHOLIC
69 BEVERAGE IS SOLD AT RETAIL; TO REPEAL SECTIONS 27-71-11, 27-71-13,
70 27-71-17, 27-71-19, 67-1-47 AND 67-1-49, MISSISSIPPI CODE OF 1972,
71 WHICH AUTHORIZE THE STATE TAX COMMISSION TO REQUEST THE STATE BOND
72 COMMISSION TO PROVIDE SUFFICIENT FUNDS REQUIRED TO MAINTAIN AN
73 ADEQUATE ALCOHOLIC BEVERAGE INVENTORY, REQUIRE THE STATE TAX
74 COMMISSION TO PURCHASE DIRECTLY FROM THE MANUFACTURER, PROVIDE
75 PENALTIES FOR SELLING ALCOHOLIC BEVERAGES NOT IDENTIFIED AS HAVING
76 BEEN PURCHASED BY THE COMMISSION, REQUIRE DISTILLERS AND
77 DISTRIBUTORS DEALING WITH THE STATE TAX COMMISSION TO REGISTER
78 WITH THE SECRETARY OF STATE AND REQUIRE DISTILLERS HAVING
79 CONTRACTS WITH THE STATE TAX COMMISSION TO FILE STATEMENTS OF
80 SALARY EXPENSES; AND FOR RELATED PURPOSES.

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

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

85 **SECTION 2.** (1) The State Tax Commission shall enter into
86 contracts with private entities for the franchise of, and may
87 franchise all rights associated with, the wholesale distribution
88 of alcoholic beverage in this state.

89 (2) The State Tax Commission shall award not more than four
90 (4) franchises for the wholesale distribution of alcoholic
91 beverages in this state. Only private entities that are awarded
92 franchises in this state may distribute alcoholic beverages at
93 wholesale in this state.

94 (3) The State Tax Commission shall adopt rules to effect the
95 transfer of the distribution of alcoholic beverages to private
96 entities. The rules shall include, but not be limited to:

97 (a) The method of transfer that promotes efficiency and
98 cost savings to the state while ensuring highest possible revenue
99 for the state;

100 (b) Procedures designed to encourage vigorous bidding
101 for alcoholic beverage wholesale distribution rights; and

102 (c) Criteria for eligibility as a wholesale distributor
103 of alcoholic beverages.

104 (4) Any contract entered into with a private entity for a
105 franchise for the wholesale distribution of alcoholic beverages
106 shall provide for:

107 (a) A negotiated annual royalty payment in an amount of
108 not less than ten percent (10%) of the gross wholesale sales of
109 alcoholic beverages by the owner of the franchise.

110 (b) Penalties for failure to make any required payments
111 to the State Tax Commission or the state or for otherwise
112 violating the terms of the contract.

113 (5) The owner of a franchise may sell the franchise to
114 another private entity only upon approval of the sale by the State
115 Tax Commission.

116 (6) Amounts paid by a private entity for a franchise for the
117 wholesale distribution of alcoholic beverages and annual royalty
118 payments shall be deposited into the State General Fund.

119 **SECTION 3.** (1) It shall be unlawful for a manufacturer of
120 alcoholic beverages, or anyone connected with the business of a
121 manufacturer of alcoholic beverages, to have any financial
122 interest in a franchise awarded under Section 2 of this act, or in
123 the business conducted by the holder of such a franchise.

124 (2) It shall be unlawful for a manufacturer of alcoholic
125 beverages, or anyone connected with his, its, or their business to
126 lend any money or make any gift or offer any gratuity, to the
127 holder of a franchise awarded under Section 2 of this act or to an
128 employee of the holder of such a franchise, except as authorized
129 by regulations of the commission. Except as provided in this
130 section, the holder of a franchise awarded under Section 2 of this
131 act or the employees of such a holder shall not accept, receive,
132 or make use of any money or gift furnished by any such person, or

133 become indebted to such person except for the purchase of
134 alcoholic beverages.

135 (3) The commission shall not prohibit the furnishing of
136 advertising specialties, printed materials, or other things having
137 nominal value to the holder of a franchise. This section shall
138 not be construed to prohibit the possession by any person of
139 advertising specialties, printed materials, or other things having
140 nominal value furnished by the holder of a franchise.

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

146 **SECTION 4.** (1) The Department of Finance and
147 Administration, acting on behalf of the State Tax Commission,
148 shall sell all real property owned by the state and utilized by
149 the State Tax Commission in connection with the wholesale
150 distribution of alcoholic beverages by the commission.

151 (2) The real property authorized to be sold by subsection
152 (1) of this section shall be sold for not less than the current
153 fair market value as determined by the averaging of at least two
154 (2) appraisals by qualified appraisers who shall be selected by
155 the Department of Finance and Administration and shall be
156 certified and licensed by the Mississippi Real Estate Appraiser
157 Licensing and Certification Board. However, if no bid is received
158 which is equal to the current market value after re-advertising
159 the property, the property may be sold at auction to the highest
160 bidder.

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

164 **SECTION 5.** Section 25-9-155, Mississippi Code of 1972, is
165 amended as follows:

166 25-9-155. (1) The State Personnel Board shall grant
167 part-time employees, as defined in Section 25-9-107(c)(xi), who
168 are fully qualified, and time-limited employees, as defined in
169 Section 25-9-107(c)(xiv), and all other nonstate service
170 employees, who are fully qualified, preference over general public
171 applicants for state service positions in the same manner that
172 preference is given to employees in the state service, as defined
173 in Section 25-9-107(b), for appointment in the state service.

174 (2) Through December 31, 2006, the State Personnel Board
175 shall grant preference over all applicants for state service
176 positions for appointment in the state service to persons who are
177 dismissed from employment with the State Tax Commission as a
178 result of removal of the commission from the responsibility for
179 the wholesale distribution of alcoholic beverages pursuant to
180 Section 2 of Senate Bill No. _____, 2005 Regular Session.

181 **SECTION 6.** Section 27-71-5, Mississippi Code of 1972, is
182 amended as follows:

183 27-71-5. (1) Upon each person approved for a permit under
184 the provisions of the Alcoholic Beverage Control Law and
185 amendments thereto, there is levied and imposed for each location
186 for the privilege of engaging and continuing in this state in the
187 business authorized by such permit, an annual privilege license
188 tax in the amount provided in the following schedule:

- 189 (a) Except as otherwise provided in this subsection
190 (1), manufacturer's permit, Class 1, distiller's and/or
191 rectifier's..... \$4,500.00
192 (b) Manufacturer's permit, Class 2, wine manufacturer
193 \$1,800.00
194 (c) Manufacturer's permit, Class 3, native wine
195 manufacturer per ten thousand (10,000) gallons or part thereof
196 produced..... \$ 10.00
197 (d) Native wine retailer's permit..... \$ 50.00
198 (e) Package retailer's permit, each..... \$ 900.00

199 (f) On-premises retailer's permit, except for clubs and
200 common carriers, each..... \$ 450.00
201 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
202 for each additional Five Thousand Dollars (\$5,000.00), or fraction
203 thereof..... \$ 225.00
204 (g) On-premises retailer's permit for wine of more than
205 four percent (4%) alcohol by volume, but not more than twenty-one
206 percent (21%) alcohol by volume, each..... \$ 225.00
207 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
208 for each additional Five Thousand Dollars (\$5,000.00), or fraction
209 thereof..... \$ 225.00
210 (h) On-premises retailer's permit for clubs.. \$ 225.00
211 On purchases exceeding Five Thousand Dollars (\$5,000.00)
212 and for each additional Five Thousand Dollars (\$5,000.00), or
213 fraction thereof..... \$ 225.00
214 (i) On-premises retailer's permit for common carriers,
215 per car, plane, or other vehicle..... \$ 120.00
216 (j) Solicitor's permit, regardless of any other
217 provision of law, solicitor's permits shall be issued only in the
218 discretion of the commission..... \$ 100.00
219 (k) Filing fee for each application except for an
220 employee identification card..... \$ 25.00
221 (l) Temporary permit, Class 1, each..... \$ 10.00
222 (m) Temporary permit, Class 2, each..... \$ 50.00
223 On-premises purchases exceeding Five Thousand Dollars
224 (\$5,000.00) and for each additional Five Thousand Dollars
225 (\$5,000.00), or fraction thereof..... \$ 225.00
226 (n) (i) Caterer's permit..... \$ 600.00
227 On purchases exceeding Five Thousand Dollars (\$5,000.00) and
228 for each additional Five Thousand Dollars (\$5,000.00), or fraction
229 thereof..... \$ 250.00
230 (ii) Caterer's permit for holders of on-premises
231 retailer's permit..... \$ 150.00

232	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
233	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
234	thereof.....	\$ 250.00
235	(o) Research permit.....	\$ 100.00
236	(p) Filing fee for each application for an employee	
237	identification card.....	\$ 5.00
238	(q) <u>Wholesale alcoholic beverage distribution</u>	
239	<u>permit.....</u>	<u>\$1,800.00</u>

240 If a person approved for a manufacturer's permit, Class 1,
241 distiller's permit produces a product with at least fifty-one
242 percent (51%) of the finished product by volume being obtained
243 from alcoholic fermentation of grapes, fruits, berries, honey
244 and/or vegetables grown and produced in Mississippi, and produces
245 all of such product by using not more than one (1) still having a
246 maximum capacity of one hundred fifty (150) liters, the annual
247 privilege license tax for such a permit shall be Ten Dollars
248 (\$10.00) per ten thousand (10,000) gallons or part thereof
249 produced. Bulk, concentrated or fortified ingredients used for
250 blending may be produced outside this state and used in producing
251 such a product.

252 In addition to the filing fee imposed by item (k) of this
253 subsection, a fee to be determined by the State Tax Commission may
254 be charged to defray costs incurred to process applications. Such
255 additional fees shall be paid into the State Treasury to the
256 credit of a special fund account, which is hereby created, and
257 expenditures therefrom shall be made only to defray the costs
258 incurred by the State Tax Commission in processing alcoholic
259 beverage applications. Any unencumbered balance remaining in the
260 special fund account on June 30 of any fiscal year shall lapse
261 into the State General Fund.

262 All privilege taxes herein imposed shall be paid in advance
263 of doing business. The additional privilege tax imposed for an

264 on-premises retailer's permit based upon purchases shall be due
265 and payable on demand.

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

273 (2) There is imposed and shall be collected from each
274 permittee, except a common carrier, solicitor, holder of an
275 employee identification card or a temporary permittee, by the
276 commission, an additional license tax equal to the amounts imposed
277 under subsection (1) of this section for the privilege of doing
278 business within any municipality or county in which the licensee
279 is located. If the licensee is located within a municipality, the
280 commission shall pay the amount of additional license tax to the
281 municipality, and if outside a municipality the commission shall
282 pay the additional license tax to the county in which the licensee
283 is located. Payments by the commission to the respective local
284 government subdivisions shall be made once each month for any
285 collections during the preceding month.

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

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

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

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

312 **SECTION 7.** Section 27-71-7, Mississippi Code of 1972, is
313 amended as follows:

314 27-71-7. (1) There is hereby levied and assessed an excise
315 tax upon each case of alcoholic beverages sold by the holder of a
316 wholesale alcoholic beverage distribution permit to be collected
317 from each retail licensee at the time of sale in accordance with
318 the following schedule:

- 319 (a) Distilled spirits..... \$2.50 per gallon
- 320 (b) Sparkling wine and champagne..... \$1.00 per gallon
- 321 (c) Other wines, including native
322 wines..... \$.35 per gallon

323 (2) (a) In addition to the tax levied by subsection (1) of
324 this section, and in addition to any other markup collected, the
325 holder of a wholesale alcoholic beverage distribution permit shall
326 collect a markup of three percent (3%) on all alcoholic beverages,
327 as defined in Section 67-1-5, Mississippi Code of 1972, which are
328 sold by the holder of a wholesale alcoholic beverage distribution
329 permit. The proceeds of the markup shall be collected by the

330 holder of a wholesale alcoholic beverage distribution permit from
331 each purchaser at the time of purchase.

332 * * *

333 (b) * * * The revenue derived from this three percent
334 (3%) markup remitted to the State Tax Commission shall be
335 deposited by the State Tax Commission in the State Treasury to the
336 credit of the "Mental Health Programs Fund," a special fund which
337 is hereby created in the State Treasury and shall be used by the
338 State Department of Mental Health for the service programs of the
339 department. * * *

340 (3) The revenue derived from this tax and markup that is
341 collected by the holder of a wholesale alcoholic beverage
342 distribution permit shall be remitted by the holder of the
343 wholesale alcoholic beverage distribution permit to the State Tax
344 Commission at times prescribed by the commission.

345 **SECTION 8.** Section 27-71-9, Mississippi Code of 1972, is
346 amended as follows:

347 27-71-9. The commission may promulgate regulations
348 authorizing persons holding on-premises retailer's permits for
349 common carriers, as provided herein, to file periodic reports and
350 pay a tax based upon the value of alcoholic beverages sold while
351 in this state. * * *

352 **SECTION 9.** Section 27-71-15, Mississippi Code of 1972, is
353 amended as follows:

354 27-71-15. Except as otherwise provided in Section 67-9-1 for
355 the transportation of limited amounts of alcoholic beverages for
356 the use of an alcohol processing permittee, if transportation
357 requires passage through a county which has not authorized the
358 sale of alcoholic beverages, such transportation shall be by a
359 sealed vehicle. Such seal shall remain unbroken until the vehicle
360 shall reach the place of business operated by the permittee. The
361 operator of any vehicle transporting alcoholic beverages shall
362 have in his possession an invoice issued by the holder of a

363 wholesale alcoholic beverage distribution permit at the time of
364 the wholesale sale covering the merchandise transported by the
365 vehicle. The commission is authorized to issue regulations
366 controlling the transportation of alcoholic beverages.

367 When the restrictions imposed by this section and by the
368 regulation of the commission have not been violated, the person
369 transporting alcoholic beverages through a county wherein the sale
370 of alcoholic beverages is prohibited shall not be guilty of
371 unlawful possession and such merchandise shall be immune from
372 seizure.

373 **SECTION 10.** Section 27-71-21, Mississippi Code of 1972, is
374 amended as follows:

375 27-71-21. Before any person shall engage in the business of
376 manufacturing, distributing or retailing of alcoholic beverages,
377 he may be required to enter into a bond payable to the State of
378 Mississippi, conditioned that he will conduct said business
379 strictly in accordance with the laws of the State of Mississippi,
380 and that he will comply with the rules and regulations prescribed
381 by the commission, and pay all taxes due the State of Mississippi.
382 The amount of bond required of a wholesale distributor shall be
383 set by the commission; the amount of a bond required of a
384 manufacturer, not including a producer of native wine, shall not
385 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount
386 required of a retailer shall be Five Thousand Dollars (\$5,000.00).
387 Provided, however, any retailer whose check for purchase of
388 merchandise or payment of taxes shall be dishonored may be
389 required by the commission to post additional bond not to exceed
390 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a
391 surety company authorized to do business in the State of
392 Mississippi and shall be approved by the commission. The
393 commission shall be authorized to institute suit in the proper
394 court for any violation of the condition of said bonds. The

395 amount of the bond required of a producer of native wine shall be
396 Five Thousand Dollars (\$5,000.00).

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

408 **SECTION 11.** Section 67-1-5, Mississippi Code of 1972, is
409 amended as follows:

410 67-1-5. For the purposes of this chapter and unless
411 otherwise required by the context:

412 (a) "Alcoholic beverage" means any alcoholic liquid,
413 including wines of more than five percent (5%) of alcohol by
414 weight, capable of being consumed as a beverage by a human being,
415 but shall not include wine containing five percent (5%) or less of
416 alcohol by weight and shall not include beer containing not more
417 than five percent (5%) of alcohol by weight, as provided for in
418 Section 67-3-5, Mississippi Code of 1972, but shall include native
419 wines. The words "alcoholic beverage" shall not include ethyl
420 alcohol manufactured or distilled solely for fuel purposes.

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

425 (c) "Distilled spirits" means any beverage containing
426 more than four percent (4%) of alcohol by weight produced by

427 distillation of fermented grain, starch, molasses or sugar,
428 including dilutions and mixtures of these beverages.

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

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

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

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

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

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

452 (j) "Division" means the Alcoholic Beverage Control
453 Division of the State Tax Commission.

454 (k) "Municipality" means any incorporated city or town
455 of this state.

456 (l) "Hotel" means an establishment within a
457 municipality, or within a qualified resort area approved as such
458 by the commission, where, in consideration of payment, food and
459 lodging are habitually furnished to travelers and wherein are

460 located at least twenty (20) adequately furnished and completely
461 separate sleeping rooms with adequate facilities that persons
462 usually apply for and receive as overnight accommodations. Hotels
463 in towns or cities of more than twenty-five thousand (25,000)
464 population are similarly defined except that they must have fifty
465 (50) or more sleeping rooms. Any such establishment described in
466 this paragraph with less than fifty (50) beds shall operate one or
467 more regular dining rooms designed to be constantly frequented by
468 customers each day. When used in this chapter, the word "hotel"
469 shall also be construed to include any establishment that meets
470 the definition of "bed and breakfast inn" as provided in this
471 section.

472 (m) "Restaurant" means a place which is regularly and
473 in a bona fide manner used and kept open for the serving of meals
474 to guests for compensation, which has suitable seating facilities
475 for guests, and which has suitable kitchen facilities connected
476 therewith for cooking an assortment of foods and meals commonly
477 ordered at various hours of the day; the service of such food as
478 sandwiches and salads only shall not be deemed in compliance with
479 this requirement. No place shall qualify as a restaurant under
480 this chapter unless twenty-five percent (25%) or more of the
481 revenue derived from such place shall be from the preparation,
482 cooking and serving of meals and not from the sale of beverages,
483 or unless the value of food given to and consumed by customers is
484 equal to twenty-five percent (25%) or more of total revenue.

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

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

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

491 (iii) Maintained by its members through the
492 payment of annual dues;

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

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

501 (vi) No member, officer, agent or employee of
502 which is paid, or directly or indirectly receives, in the form of
503 a salary or other compensation any profit from the distribution or
504 sale of alcoholic beverages to the club or to members or guests of
505 the club beyond such salary or compensation as may be fixed and
506 voted at a proper meeting by the board of directors or other
507 governing body out of the general revenues of the club.

508 The commission may, in its discretion, waive the five-year
509 provision of this paragraph. In order to qualify under this
510 paragraph, a club must file with the commission, at the time of
511 its application for a license under this chapter, two (2) copies
512 of a list of the names and residences of its members and similarly
513 file, within ten (10) days after the election of any additional
514 member, his name and address. Each club applying for a license
515 shall also file with the commission at the time of the application
516 a copy of its articles of association, charter of incorporation,
517 bylaws or other instruments governing the business and affairs
518 thereof.

519 (o) "Qualified resort area" means any area or locality
520 outside of the limits of incorporated municipalities in this state
521 commonly known and accepted as a place which regularly and
522 customarily attracts tourists, vacationists and other transients
523 because of its historical, scenic or recreational facilities or
524 attractions, or because of other attributes which regularly and
525 customarily appeal to and attract tourists, vacationists and other

526 transients in substantial numbers; however, no area or locality
527 shall so qualify as a resort area until it has been duly and
528 properly approved as such by the commission.

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

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

544 (iii) The term includes:

545 1. The clubhouses associated with the state
546 park golf courses at the Lefleur's Bluff State Park, the John Kyle
547 State Park, the Percy Quin State Park and the Hugh White State
548 Park; and

549 2. The clubhouse and associated golf course
550 where the golf course is adjacent to one or more planned
551 residential developments and the golf course and all such
552 developments collectively include at least seven hundred fifty
553 (750) acres and at least four hundred (400) residential units.

554 The status of these clubhouses and golf courses as qualified
555 resort areas does not require any declaration of same by the
556 commission.

557 (p) "Native wine" means any product, produced in
558 Mississippi for sale, having an alcohol content not to exceed

559 twenty-one percent (21%) by weight and made in accordance with
560 revenue laws of the United States, which shall be obtained
561 primarily from the alcoholic fermentation of the juice of ripe
562 grapes, fruits, berries or vegetables grown and produced in
563 Mississippi; provided that bulk, concentrated or fortified wines
564 used for blending may be produced without this state and used in
565 producing native wines. The commission shall adopt and promulgate
566 rules and regulations to permit a producer to import such bulk
567 and/or fortified wines into this state for use in blending with
568 native wines without payment of any excise tax that would
569 otherwise accrue thereon.

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

573 (r) "Bed and breakfast inn" means an establishment
574 within a municipality where in consideration of payment, breakfast
575 and lodging are habitually furnished to travelers and wherein are
576 located not less than eight (8) and not more than nineteen (19)
577 adequately furnished and completely separate sleeping rooms with
578 adequate facilities, that persons usually apply for and receive as
579 overnight accommodations; however, such restriction on the minimum
580 number of sleeping rooms shall not apply to establishments on the
581 National Register of Historic Places. No place shall qualify as a
582 bed and breakfast inn under this chapter unless on the date of the
583 initial application for a license under this chapter more than
584 fifty percent (50%) of the sleeping rooms are located in a
585 structure formerly used as a residence.

586 (s) "Wholesale alcoholic beverage distributor" means a
587 person engaged in purchasing, transporting and storing alcoholic
588 beverages within the State of Mississippi and selling at wholesale
589 alcoholic beverages to permittees who are authorized to sell
590 alcoholic beverages at retail.

591 **SECTION 12.** Section 67-1-9, Mississippi Code of 1972, is
592 amended as follows:

593 67-1-9. (1) It shall be unlawful for any person to
594 manufacture, distill, brew, sell, possess, import into this state,
595 export from the state, transport, distribute, warehouse, store,
596 solicit, take order for, bottle, rectify, blend, treat, mix or
597 process any alcoholic beverage except as authorized in this
598 chapter. However, nothing contained herein shall prevent
599 importers, wineries and distillers of alcoholic beverages from
600 storing such alcoholic beverages in private bonded warehouses
601 located within the State of Mississippi, and nothing contained
602 herein shall prohibit the holder of a wholesale alcoholic beverage
603 distribution permit from storing alcoholic beverages in private
604 bonded warehouses located in the State of Mississippi for resale
605 to authorized permittees. The commission is hereby authorized to
606 promulgate rules and regulations for the establishment of such
607 private bonded warehouses and for the control of alcoholic
608 beverages stored in such warehouses. Additionally, nothing herein
609 contained shall prevent any duly licensed practicing physician or
610 dentist from possessing or using alcoholic liquor in the strict
611 practice of his profession, or prevent any hospital or other
612 institution caring for sick and diseased persons, from possessing
613 and using alcoholic liquor for the treatment of bona fide patients
614 of such hospital or other institution. Any drugstore employing a
615 licensed pharmacist may possess and use alcoholic liquors in the
616 combination of prescriptions of duly licensed physicians. The
617 possession and dispensation of wine by an authorized
618 representative of any church for the purpose of conducting any
619 bona fide rite or religious ceremony conducted by such church
620 shall not be prohibited by this chapter.

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

623 (a) By a fine of not less than One Hundred Dollars
624 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
625 imprisonment in the county jail not less than one (1) week nor
626 more than three (3) months, or both, for the first conviction
627 under this section.

628 (b) By a fine of not less than One Hundred Dollars
629 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
630 imprisonment in the county jail not less than sixty (60) days, nor
631 more than six (6) months, or both fine and imprisonment, for the
632 second conviction for violating this section.

633 (c) By a fine of not less than One Hundred Dollars
634 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
635 imprisonment in the State Penitentiary not less than one (1) year,
636 nor more than five (5) years, or both fine and imprisonment, for
637 conviction the third time under this section for the violation
638 thereof after having been twice convicted of its violation.

639 **SECTION 13.** Section 67-1-37, Mississippi Code of 1972, is
640 amended as follows:

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

642 67-1-37. The State Tax Commission, under its duties and
643 powers with respect to the Alcoholic Beverage Control Division
644 therein, shall have the following powers, functions and duties:

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

649 (b) To revoke, suspend or cancel, for violation of or
650 noncompliance with the provisions of this chapter, or the law
651 governing the production and sale of native wines, or any lawful
652 rules and regulations of the commission issued hereunder, or for
653 other sufficient cause, any permit issued by it under the
654 provisions of this chapter; however, no such permit shall be
655 revoked, suspended or cancelled except after a hearing of which

656 the permit holder shall have been given reasonable notice and an
657 opportunity to be heard. The commission shall be authorized to
658 suspend the permit of any permit holder for being out of
659 compliance with an order for support, as defined in Section
660 93-11-153. The procedure for suspension of a permit for being out
661 of compliance with an order for support, and the procedure for the
662 reissuance or reinstatement of a permit suspended for that
663 purpose, and the payment of any fees for the reissuance or
664 reinstatement of a permit suspended for that purpose, shall be
665 governed by Section 93-11-157 or Section 93-11-163, as the case
666 may be. If there is any conflict between any provision of Section
667 93-11-157 or Section 93-11-163 and any provision of this chapter,
668 the provisions of Section 93-11-157 or Section 93-11-163, as the
669 case may be, shall control.

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

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

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

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

687 (g) Subject to the provisions of * * * Section
688 67-1-51(3), to issue rules and regulations governing the issuance

689 of retail permits for premises located near or around schools,
690 colleges, universities, churches and other public institutions,
691 and specifying the distances therefrom within which no such permit
692 shall be issued. The Alcoholic Beverage Control Division shall
693 not allow the sale or consumption of alcoholic beverages in or on
694 the campus of any public school or college, and no alcoholic
695 beverage shall be for sale or consumed at any public athletic
696 event at any grammar or high school or any college.

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

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

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

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

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

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

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

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

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

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

757 (r) To enforce the provisions made unlawful by Sections
758 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

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

763 67-1-37. The State Tax Commission, under its duties and
764 powers with respect to the Alcoholic Beverage Control Division
765 therein, shall have the following powers, functions and duties:

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

770 (b) To revoke, suspend or cancel, for violation of or
771 noncompliance with the provisions of this chapter, or the law
772 governing the production and sale of native wines, or any lawful
773 rules and regulations of the commission issued hereunder, or for
774 other sufficient cause, any permit issued by it under the
775 provisions of this chapter; however, no such permit shall be
776 revoked, suspended or cancelled except after a hearing of which
777 the permit holder shall have been given reasonable notice and an
778 opportunity to be heard. The commission shall be authorized to
779 suspend the permit of any permit holder for being out of
780 compliance with an order for support, as defined in Section
781 93-11-153. The procedure for suspension of a permit for being out
782 of compliance with an order for support, and the procedure for the
783 reissuance or reinstatement of a permit suspended for that
784 purpose, and the payment of any fees for the reissuance or
785 reinstatement of a permit suspended for that purpose, shall be

786 governed by Section 93-11-157 or 93-11-163, as the case may be.
787 If there is any conflict between any provision of Section
788 93-11-157 or 93-11-163 and any provision of this chapter, the
789 provisions of Section 93-11-157 or 93-11-163, as the case may be,
790 shall control.

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

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

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

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

808 (g) Subject to the provisions of * * * Section
809 67-1-51(3), to issue rules and regulations governing the issuance
810 of retail permits for premises located near or around schools,
811 colleges, universities, churches and other public institutions,
812 and specifying the distances therefrom within which no such permit
813 shall be issued. The Alcoholic Beverage Control Division shall
814 not allow the sale or consumption of alcoholic beverages in or on
815 the campus of any public school or college, and no alcoholic
816 beverage shall be for sale or consumed at any public athletic
817 event at any grammar or high school or any college.

818 (h) To adopt and promulgate, repeal and amend, such
819 rules, regulations, standards, requirements and orders, not
820 inconsistent with this chapter or any law of this state or of the
821 United States, as it deems necessary to control the manufacture,
822 importation, transportation, distribution and sale of alcoholic
823 liquor, whether intended for beverage or nonbeverage use in a
824 manner not inconsistent with the provisions of this chapter or any
825 other statute, including the native wine laws.

826 (i) To call upon other administrative departments of
827 the state, county and municipal governments, county and city
828 police departments and upon prosecuting officers for such
829 information and assistance as it may deem necessary in the
830 performance of its duties.

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

837 (k) To inspect, or cause to be inspected, any premises
838 where alcoholic liquors intended for sale are manufactured,
839 stored, distributed or sold, and to examine or cause to be
840 examined all books and records pertaining to the business
841 conducted therein.

842 (l) In the conduct of any hearing authorized to be held
843 by the commission, to hear testimony and take proof material for
844 its information in the discharge of its duties under this chapter;
845 to issue subpoenas, which shall be effective in any part of this
846 state, requiring the attendance of witnesses and the production of
847 books and records; to administer or cause to be administered
848 oaths; and to examine or cause to be examined any witness under
849 oath. Any court of record, or any judge thereof, may by order
850 duly entered require the attendance of witnesses and the

851 production of relevant books subpoenaed by the commission, and
852 such court or judge may compel obedience to its or his order by
853 proceedings for contempt.

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

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

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

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

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

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

880 **SECTION 14.** Section 67-1-41, Mississippi Code of 1972, is
881 amended as follows:

882 67-1-41. * * *

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

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

893 (3) The commission may promulgate rules and regulations
894 which authorize on-premises retailers to purchase limited amounts
895 of alcoholic beverages from package retailers and for package
896 retailers to purchase limited amounts of alcoholic beverages from
897 other package retailers. The commission shall develop and provide
898 forms to be completed by the on-premises retailers and the package
899 retailers verifying the transaction. The completed forms shall be
900 forwarded to the commission within a period of time prescribed by
901 the commission.

902 * * *

903 (4) The commission shall maintain all forms to be completed
904 by applicants necessary for licensure by the commission at all
905 district offices of the commission.

906 (5) The commission may promulgate rules which authorize the
907 manufacturer of an alcoholic beverage or wine to import, transport
908 and furnish or give a sample of alcoholic beverages or wines to
909 the holders of package retailer's permits, on-premises retailer's
910 permits, native wine retailer's permits and temporary retailer's
911 permits who have not previously purchased the brand of that
912 manufacturer from the commission. For each holder of the
913 designated permits, the manufacturer may furnish not more than
914 five hundred (500) milliliters of any brand of alcoholic beverage
915 and not more than three (3) liters of any brand of wine.

916 (6) The commission may promulgate rules disallowing open
917 product sampling of alcoholic beverages or wines by the holders of
918 package retailer's permits and permitting open product sampling of
919 alcoholic beverages by the holders of on-premises retailer's
920 permits. Permitted sample products shall be plainly identified
921 "sample" and the actual sampling must occur in the presence of the
922 manufacturer's representatives during the legal operating hours of
923 on-premises retailers.

924 (7) The commission may promulgate rules and regulations that
925 authorize the holder of a research permit to import and purchase
926 limited amounts of alcoholic beverages from importers, wineries,
927 distillers and wholesale distributors of alcoholic
928 beverages * * *. The commission shall develop and provide forms
929 to be completed by the research permittee verifying each
930 transaction. The completed forms shall be forwarded to the
931 commission within a period of time prescribed by the commission.
932 The records and inventory of alcoholic beverages shall be open to
933 inspection at any time by the Director of the Alcoholic Beverage
934 Control Division or any duly authorized agent.

935 **SECTION 15.** Section 67-1-43, Mississippi Code of 1972, is
936 amended as follows:

937 67-1-43. Any authorized retail distributor who shall
938 purchase or receive intoxicating liquor from any source except
939 from the holder of a wholesale alcoholic beverage distribution
940 permit, unless authorized by rules and regulations of the
941 commission promulgated under subsection (4) of Section 67-1-41,
942 shall be guilty of a misdemeanor and upon conviction thereof shall
943 be punished by a fine of not less than Five Hundred Dollars
944 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to
945 which may be added imprisonment in the county jail for not more
946 than six (6) months. Any authorization of such person to sell
947 intoxicating beverages may be revoked as provided by law.

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

951 **SECTION 16.** Section 67-1-45, Mississippi Code of 1972, is
952 amended as follows:

953 67-1-45. No manufacturer, rectifier, * * * distiller or
954 wholesale distributor of intoxicating liquor shall sell or attempt
955 to sell any such intoxicating liquor, except malt liquor, within
956 the State of Mississippi, except as authorized in this
957 chapter. * * * A producer of native wine may sell native wines to
958 an * * * authorized retail distributor or directly to consumers.

959 Any violation of this section by any manufacturer, rectifier,
960 or distiller shall be punished by a fine of not less than Five
961 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars
962 (\$2,000.00), to which may be added imprisonment in the county jail
963 not to exceed six (6) months.

964 **SECTION 17.** Section 67-1-51, Mississippi Code of 1972, is
965 amended as follows:

966 67-1-51. (1) Permits which may be issued by the commission
967 shall be as follows:

968 (a) **Manufacturer's permit.** A manufacturer's permit
969 shall permit the manufacture, importation in bulk, bottling and
970 storage of alcoholic liquor and its distribution and sale to
971 manufacturers holding permits under this chapter in this state and
972 to persons outside the state who are authorized by law to purchase
973 the same * * * . Manufacturer's permits shall be of the following
974 classes:

975 Class 1. Distiller's and/or rectifier's permit, which shall
976 authorize the holder thereof to operate a distillery for the
977 production of distilled spirits by distillation or redistillation
978 and/or to operate a rectifying plant for the purifying, refining,
979 mixing, blending, flavoring or reducing in proof of distilled
980 spirits and alcohol.

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

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

987 (b) **Package retailer's permit.** Except as otherwise
988 provided in this paragraph, a package retailer's permit shall
989 authorize the holder thereof to operate a store exclusively for
990 the sale at retail in original sealed and unopened packages of
991 alcoholic beverages, including native wines, not to be consumed on
992 the premises where sold. Alcoholic beverages shall not be sold by
993 any retailer in any package or container containing less than
994 fifty (50) milliliters by liquid measure. In addition to the sale
995 at retail of packages of alcoholic beverages, the holder of a
996 package retailer's permit is authorized to sell at retail
997 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
998 other beverages commonly used to mix with alcoholic beverages.
999 Nonalcoholic beverages sold by the holder of a package retailer's
1000 permit shall not be consumed on the premises where sold.

1001 (c) **On-premises retailer's permit.** An on-premises
1002 retailer's permit shall authorize the sale of alcoholic beverages,
1003 including native wines, for consumption on the licensed premises
1004 only. Such a permit shall issue only to qualified hotels,
1005 restaurants and clubs, and to common carriers with adequate
1006 facilities for serving passengers. In resort areas, whether
1007 inside or outside of a municipality, the commission may, in its
1008 discretion, issue on-premises retailer's permits to such
1009 establishments as it deems proper. An on-premises retailer's
1010 permit when issued to a common carrier shall authorize the sale
1011 and serving of alcoholic beverages aboard any licensed vehicle
1012 while moving through any county of the state; however, the sale of

1013 such alcoholic beverages shall not be permitted while such vehicle
1014 is stopped in a county that has not legalized such sales.

1015 (d) **Solicitor's permit.** A solicitor's permit shall
1016 authorize the holder thereof to act as salesman for a manufacturer
1017 or wholesaler holding a proper permit, to solicit on behalf of his
1018 employer orders for alcoholic beverages, and to otherwise promote
1019 his employer's products in a legitimate manner. Such a permit
1020 shall authorize the representation of and employment by one (1)
1021 principal only. However, the permittee may also, in the
1022 discretion of the commission, be issued additional permits to
1023 represent other principals. No such permittee shall buy or sell
1024 alcoholic beverages for his own account, and no such beverage
1025 shall be brought into this state in pursuance of the exercise of
1026 such permit otherwise than through a permit issued to a wholesaler
1027 or manufacturer in the state.

1028 (e) **Native wine retailer's permit.** A native wine
1029 retailer's permit shall be issued only to a holder of a Class 3
1030 manufacturer's permit, and shall authorize the holder thereof to
1031 make retail sales of native wines to consumers for on-premises
1032 consumption or to consumers in originally sealed and unopened
1033 containers at an establishment located on the premises of or in
1034 the immediate vicinity of a native winery.

1035 (f) **Temporary retailer's permit.** A temporary
1036 retailer's permit shall permit the purchase and resale of
1037 alcoholic beverages, including native wines, during legal hours on
1038 the premises described in the temporary permit only.

1039 Temporary retailer's permits shall be of the following
1040 classes:

1041 Class 1. A temporary one-day permit may be issued to bona
1042 fide nonprofit civic or charitable organizations authorizing the
1043 sale of alcoholic beverages, including native wine, for
1044 consumption on the premises described in the temporary permit
1045 only. Class 1 permits may be issued only to applicants

1046 demonstrating to the commission, by affidavit submitted ten (10)
1047 days prior to the proposed date or such other time as the
1048 commission may determine, that they meet the qualifications of
1049 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
1050 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
1051 obtain all alcoholic beverages from package retailers located in
1052 the county in which the temporary permit is issued. Alcoholic
1053 beverages remaining in stock upon expiration of the temporary
1054 permit may be returned by the permittee to the package retailer
1055 for a refund of the purchase price upon consent of the package
1056 retailer or may be kept by the permittee exclusively for personal
1057 use and consumption, subject to all laws pertaining to the illegal
1058 sale and possession of alcoholic beverages. The commission,
1059 following review of the affidavit and the requirements of the
1060 applicable statutes and regulations, may issue the permit.

1061 Class 2. A temporary permit, not to exceed seventy (70)
1062 days, may be issued to prospective permittees seeking to transfer
1063 a permit authorized in either paragraph (b) or (c) of this
1064 section. A Class 2 permit may be issued only to applicants
1065 demonstrating to the commission, by affidavit, that they meet the
1066 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
1067 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
1068 commission, following a preliminary review of the affidavit and
1069 the requirements of the applicable statutes and regulations, may
1070 issue the permit.

1071 Class 2 temporary permittees must purchase their alcoholic
1072 beverages directly from the commission or, with approval of the
1073 commission, purchase the remaining stock of the previous
1074 permittee. If the proposed applicant of a Class 1 or Class 2
1075 temporary permit falsifies information contained in the
1076 application or affidavit, the applicant shall never again be
1077 eligible for a retail alcohol beverage permit and shall be subject
1078 to prosecution for perjury.

1079 (g) **Caterer's permit.** A caterer's permit shall permit
1080 the purchase of alcoholic beverages by a person engaging in
1081 business as a caterer and the resale of alcoholic beverages by
1082 such person in conjunction with such catering business. No person
1083 shall qualify as a caterer unless forty percent (40%) or more of
1084 the revenue derived from such catering business shall be from the
1085 serving of prepared food and not from the sale of alcoholic
1086 beverages and unless such person has obtained a permit for such
1087 business from the Department of Health. A caterer's permit shall
1088 not authorize the sale of alcoholic beverages on the premises of
1089 the person engaging in business as a caterer; however, the holder
1090 of an on-premises retailer's permit may hold a caterer's permit.
1091 All sales of alcoholic beverages by holders of a caterer's permit
1092 shall be made at the location being catered by the caterer, and
1093 such sales may be made only for consumption at the catered
1094 location. Such sales shall be made pursuant to any other
1095 conditions and restrictions which apply to sales made by
1096 on-premises retail permittees. The holder of a caterer's permit
1097 or his employees shall remain at the catered location as long as
1098 alcoholic beverages are being sold pursuant to the permit issued
1099 under this paragraph (g), and the permittee and employees at such
1100 location shall each have personal identification cards issued by
1101 the Alcoholic Beverage Control Division of the commission. No
1102 unsold alcoholic beverages may be left at the catered location by
1103 the permittee upon the conclusion of his business at that
1104 location. Appropriate law enforcement officers and Alcoholic
1105 Beverage Control Division personnel may enter a catered location
1106 on private property in order to enforce laws governing the sale or
1107 serving of alcoholic beverages.

1108 (h) **Research Permit.** A research permit shall authorize
1109 the holder thereof to operate a research facility for the
1110 professional research of alcoholic beverages. Such permit shall
1111 authorize the holder of the permit to import and purchase limited

1112 amounts of alcoholic beverages from * * * importers, wineries,
1113 distillers and distributors of alcoholic beverages for
1114 professional research.

1115 (i) **Alcohol processing permit.** An alcohol processing
1116 permit shall authorize the holder thereof to purchase, transport
1117 and possess alcoholic beverages for the exclusive use in cooking,
1118 processing or manufacturing products which contain alcoholic
1119 beverages as an integral ingredient. An alcohol processing permit
1120 shall not authorize the sale of alcoholic beverages on the
1121 premises of the person engaging in the business of cooking,
1122 processing or manufacturing products which contain alcoholic
1123 beverages. The amounts of alcoholic beverages allowed under an
1124 alcohol processing permit shall be set by the commission.

1125 (j) **Wholesale alcoholic beverage distribution permit.**
1126 A wholesale alcoholic beverage distribution permit shall be issued
1127 only to private entities who are granted the authority to
1128 distribute alcoholic beverages at retail pursuant to Section 2 of
1129 Senate Bill No. _____, 2005 Regular Session. Such permit shall
1130 authorize the holder thereof to purchase for resale, to store and
1131 to distribute to authorized permittees, alcoholic beverages. Such
1132 permit shall entitle the holder thereof to purchase alcoholic
1133 beverages from any manufacturer or importer for the purpose of
1134 resale in this state to permittees that are authorized to sell
1135 alcoholic beverages at retail. The holder of a wholesale
1136 alcoholic beverage distribution permit may transport alcoholic
1137 beverages into the State of Mississippi and store such alcoholic
1138 beverages in a private bonded warehouse of such permittee's choice
1139 for sale to permittees who are authorized to sell alcoholic
1140 beverages at retail. The holder of a wholesale alcoholic beverage
1141 distribution permit may solicit orders for alcoholic beverages
1142 from any permittee that is authorized to sell alcoholic beverages
1143 at retail. Records of such orders shall be kept and maintained
1144 for a period of three (3) years after the order is taken and shall

1145 be subject to inspection by the division at any time without prior
1146 notice.

1147 (2) Except as otherwise provided in subsection (4) of this
1148 section, retail permittees may hold more than one (1) retail
1149 permit, at the discretion of the commission.

1150 (3) Except as otherwise provided in this subsection, no
1151 authority shall be granted to any person to manufacture, sell or
1152 store for sale any intoxicating liquor as specified in this
1153 chapter within four hundred (400) feet of any church, school,
1154 kindergarten or funeral home. However, within an area zoned
1155 commercial or business, such minimum distance shall be not less
1156 than one hundred (100) feet.

1157 A church or funeral home may waive the distance restrictions
1158 imposed in this subsection in favor of allowing issuance by the
1159 commission of a permit, pursuant to subsection (1) of this
1160 section, to authorize activity relating to the manufacturing, sale
1161 or storage of alcoholic beverages which would otherwise be
1162 prohibited under the minimum distance criterion. Such waiver
1163 shall be in written form from the owner, the governing body, or
1164 the appropriate officer of the church or funeral home having the
1165 authority to execute such a waiver, and the waiver shall be filed
1166 with and verified by the commission before becoming effective.

1167 The distance restrictions imposed in this subsection shall
1168 not apply to the sale or storage of alcoholic beverages at a bed
1169 and breakfast inn listed in the National Register of Historic
1170 Places.

1171 (4) No person, either individually or as a member of a firm,
1172 partnership or association, or as a stockholder, officer or
1173 director in a corporation, shall own or control any interest in
1174 more than one (1) package retailer's permit, nor shall such
1175 person's spouse, if living in the same household of such person,
1176 any relative of such person, if living in the same household of
1177 such person, or any other person living in the same household with

1178 such person own any interest in any other package retailer's
1179 permit.

1180 (2) Except as otherwise provided in subsection (4) of this
1181 section, retail permittees may hold more than one (1) retail
1182 permit, at the discretion of the commission.

1183 (3) Except as otherwise provided in this subsection, no
1184 authority shall be granted to any person to manufacture, sell or
1185 store for sale any intoxicating liquor as specified in this
1186 chapter within four hundred (400) feet of any church, school,
1187 kindergarten or funeral home. However, within an area zoned
1188 commercial or business, such minimum distance shall be not less
1189 than one hundred (100) feet.

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1191 imposed in this subsection in favor of allowing issuance by the
1192 commission of a permit, pursuant to subsection (1) of this
1193 section, to authorize activity relating to the manufacturing, sale
1194 or storage of alcoholic beverages which would otherwise be
1195 prohibited under the minimum distance criterion. Such waiver
1196 shall be in written form from the owner, the governing body, or
1197 the appropriate officer of the church or funeral home having the
1198 authority to execute such a waiver, and the waiver shall be filed
1199 with and verified by the commission before becoming effective.

1200 The distance restrictions imposed in this subsection shall
1201 not apply to the sale or storage of alcoholic beverages at a bed
1202 and breakfast inn listed in the National Register of Historic
1203 Places.

1204 (4) No person, either individually or as a member of a firm,
1205 partnership or association, or as a stockholder, officer or
1206 director in a corporation, shall own or control any interest in
1207 more than one (1) package retailer's permit, nor shall such
1208 person's spouse, if living in the same household of such person,
1209 any relative of such person, if living in the same household of
1210 such person, or any other person living in the same household with

1211 such person own any interest in any other package retailer's
1212 permit.

1213 **SECTION 18.** Section 67-1-77, Mississippi Code of 1972, is
1214 amended as follows:

1215 67-1-77. (1) It shall be unlawful for the holder of a
1216 manufacturer's permit, wholesale alcoholic beverage distribution
1217 permit, or anyone connected with the business of such holder, or
1218 for any other distiller, wine manufacturer, wholesale distributor,
1219 brewer, rectifier, blender or bottler, to have any financial
1220 interest in any premises upon which any alcoholic beverage is sold
1221 at retail by any permittee, or in the business conducted by such
1222 permittee; provided, however, the holder of a manufacturer's or
1223 wholesale alcoholic beverage distribution permit may contract for
1224 the service of a representative in the area of governmental
1225 affairs on a part-time basis with a holder of an on-premises
1226 permit.

1227 (2) It shall * * * be unlawful for any such person, or
1228 anyone connected with his, its, or their business to lend any
1229 money or make any gift or offer any gratuity, to any retail
1230 permittee, except as authorized by regulations of the commission,
1231 to the holder of any retail permit issued under the provisions of
1232 this chapter. Except as above provided, no retail permittee shall
1233 accept, receive, or make use of any money or gift furnished by any
1234 such person, or become indebted to such person except for the
1235 purchase of alcoholic beverages.

1236 (3) The commission shall not prohibit the furnishing of
1237 advertising specialties, printed materials, or other things having
1238 nominal value to a retail permittee. This section shall not be
1239 construed to prohibit the possession by any person of advertising
1240 specialties, printed materials, or other things having nominal
1241 value furnished by a retail permittee.

1242 (4) Any person violating the provisions of this section
1243 shall, upon conviction, be punished by a fine of not more than

1244 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more
1245 than two (2) years, or by both such fine and imprisonment, in the
1246 discretion of the court.

1247 **SECTION 19.** Section 67-1-79, Mississippi Code of 1972, is
1248 amended as follows:

1249 67-1-79. * * * (1) Each delivery of any alcoholic beverage
1250 to a retail permittee shall be accompanied by an invoice of sale
1251 or delivery slip which shall bear as its date the date of delivery
1252 of such alcoholic beverage.

1253 (2) The holder of a wholesale alcoholic beverage
1254 distribution permit shall deliver alcoholic beverages ordered by
1255 retail permittees within three (3) days of the receipt of an order
1256 made by the retail permittee.

1257 **SECTION 20.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,
1258 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the
1259 State Tax Commission to request the State Bond Commission to
1260 provide sufficient funds required to maintain an adequate
1261 alcoholic beverage inventory, require the State Tax Commission to
1262 purchase directly from the manufacturer, provide penalties for
1263 selling alcoholic beverages not identified as having been
1264 purchased by the commission, require distillers and distributors
1265 dealing with the State Tax Commission to register with the
1266 Secretary of State and require distillers having contracts with
1267 the State Tax Commission to file statements of salary expenses,
1268 are repealed.

1269 **SECTION 21.** Sections 1 and 2 of this act shall be codified
1270 in Chapter 1, Title 25, Mississippi Code of 1972.

1271 **SECTION 22.** Sections 1, 2, 3 and 4 of this act shall take
1272 effect and be in force from and after their passage; the remainder
1273 shall take effect and be in force from and after January 1, 2005.