

By: Representative Moak

To: Ways and Means

## HOUSE BILL NO. 687

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

53 WHICH AUTHORIZE THE STATE TAX COMMISSION TO REQUEST THE STATE BOND  
54 COMMISSION TO PROVIDE SUFFICIENT FUNDS REQUIRED TO MAINTAIN AN  
55 ADEQUATE ALCOHOLIC BEVERAGE INVENTORY, REQUIRE THE STATE TAX  
56 COMMISSION TO PURCHASE DIRECTLY FROM THE MANUFACTURER, PROVIDE  
57 PENALTIES FOR SELLING ALCOHOLIC BEVERAGES NOT IDENTIFIED AS HAVING  
58 BEEN PURCHASED BY THE COMMISSION, REQUIRE DISTILLERS AND  
59 DISTRIBUTORS DEALING WITH THE STATE TAX COMMISSION TO REGISTER  
60 WITH THE SECRETARY OF STATE AND REQUIRE DISTILLERS HAVING  
61 CONTRACTS WITH THE STATE TAX COMMISSION TO FILE STATEMENTS OF  
62 SALARY EXPENSES; AND FOR RELATED PURPOSES.

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

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

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

72 (2) The commission may grant one or more exclusive service  
73 territories in the state in which a private sector entity has the  
74 exclusive rights to the wholesale distribution of alcoholic  
75 beverages.

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

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

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

84 (c) Criteria for eligibility as a wholesale distributor  
85 of alcoholic beverages.

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

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

92 **SECTION 3.** (1) The Department of Finance and  
93 Administration, acting on behalf of the State Tax Commission,  
94 shall sell all real property owned by the state and utilized by  
95 the State Tax Commission in connection with the wholesale  
96 distribution of alcoholic beverages by the commission.

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

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

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

112 27-71-5. (1) Upon each person approved for a permit under  
113 the provisions of the Alcoholic Beverage Control Law and  
114 amendments thereto, there is levied and imposed for each location  
115 for the privilege of engaging and continuing in this state in the  
116 business authorized by such permit, an annual privilege license  
117 tax in the amount provided in the following schedule:

118 (a) Except as otherwise provided in this subsection  
119 (1), manufacturer's permit, Class 1, distiller's and/or  
120 rectifier's..... \$4,500.00

121 (b) Manufacturer's permit, Class 2, wine manufacturer

122	.....	\$1,800.00
123	(c) Manufacturer's permit, Class 3, native wine	
124	manufacturer per ten thousand (10,000) gallons or part thereof	
125	produced.....	\$ 10.00
126	(d) Native wine retailer's permit.....	\$ 50.00
127	(e) Package retailer's permit, each.....	\$ 900.00
128	(f) On-premises retailer's permit, except for clubs and	
129	common carriers, each.....	\$ 450.00
130	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
131	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
132	thereof.....	\$ 225.00
133	(g) On-premises retailer's permit for wine of more than	
134	four percent (4%) alcohol by volume, but not more than twenty-one	
135	percent (21%) alcohol by volume, each.....	\$ 225.00
136	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
137	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
138	thereof.....	\$ 225.00
139	(h) On-premises retailer's permit for clubs..	\$ 225.00
140	On purchases exceeding Five Thousand Dollars (\$5,000.00) and	
141	for each additional Five Thousand Dollars (\$5,000.00), or fraction	
142	thereof.....	\$ 225.00
143	(i) On-premises retailer's permit for common carriers,	
144	per car, plane, or other vehicle.....	\$ 120.00
145	(j) Solicitor's permit, regardless of any other	
146	provision of law, solicitor's permits shall be issued only in the	
147	discretion of the commission.....	\$ 100.00
148	(k) Filing fee for each application except for an	
149	employee identification card.....	\$ 25.00
150	(l) Temporary permit, Class 1, each.....	\$ 10.00
151	(m) Temporary permit, Class 2, each.....	\$ 50.00
152	On-premises purchases exceeding Five Thousand Dollars	
153	(\$5,000.00) and for each additional Five Thousand Dollars	
154	(\$5,000.00), or fraction thereof.....	\$ 225.00

155           (n) (i) Caterer's permit..... \$ 600.00  
156           On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
157 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
158 thereof..... \$ 250.00  
159           (ii) Caterer's permit for holders of on-premises  
160 retailer's permit..... \$ 150.00  
161           On purchases exceeding Five Thousand Dollars (\$5,000.00) and  
162 for each additional Five Thousand Dollars (\$5,000.00), or fraction  
163 thereof..... \$ 250.00  
164           (o) Research permit..... \$ 100.00  
165           (p) Filing fee for each application for an employee  
166 identification card..... \$ 5.00  
167           (q) Wholesale alcoholic beverage distribution  
168 permit.....\$1,800.00

169           If a person approved for a manufacturer's permit, Class 1,  
170 distiller's permit produces a product with at least fifty-one  
171 percent (51%) of the finished product by volume being obtained  
172 from alcoholic In addition to the filing fee imposed by item (k)  
173 of this subsection, a fee to be determined by the State Tax  
174 Commission may be charged to defray costs incurred to process  
175 applications. Such additional fees shall be paid into the State  
176 Treasury to the credit of a special fund account, which is hereby  
177 created, and expenditures therefrom shall be made only to defray  
178 the costs incurred by the State Tax Commission in processing  
179 alcoholic beverage applications. Any unencumbered balance  
180 remaining in the special fund account on June 30 of any fiscal  
181 year shall lapse into the State General Fund.

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

186           Any person who has paid the additional privilege license tax  
187 imposed by item (f), (g), (h), (m) or (n) of this subsection, and

188 whose permit is renewed, may add any unused fraction of Five  
189 Thousand Dollars (\$5,000.00) purchases to the first Five Thousand  
190 Dollars (\$5,000.00) purchases authorized by the renewal permit,  
191 and no additional license tax will be required until purchases  
192 exceed the sum of the two (2) figures.

193 (2) There is imposed and shall be collected from each  
194 permittee, except a common carrier, solicitor, holder of an  
195 employee identification card or a temporary permittee, by the  
196 commission, an additional license tax equal to the amounts imposed  
197 under subsection (1) of this section for the privilege of doing  
198 business within any municipality or county in which the licensee  
199 is located. If the licensee is located within a municipality, the  
200 commission shall pay the amount of additional license tax to the  
201 municipality, and if outside a municipality the commission shall  
202 pay the additional license tax to the county in which the licensee  
203 is located. Payments by the commission to the respective local  
204 government subdivisions shall be made once each month for any  
205 collections during the preceding month.

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

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

217 (5) If any person shall engage or continue in any business  
218 which is taxable hereunder without having paid the tax as provided  
219 herein, such person shall be liable for the full amount of such  
220 tax plus a penalty thereon equal to the amount thereof, and, in

221 addition, shall be punished by a fine of not more than One  
222 Thousand Dollars (\$1,000.00), or by imprisonment in the county  
223 jail for a term of not more than six (6) months, or by both such  
224 fine and imprisonment, in the discretion of the court.

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

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

234 27-71-7. (1) There is hereby levied and assessed an excise  
235 tax upon each case of alcoholic beverages sold by the holder of a  
236 wholesale alcoholic beverage distribution permit to be collected  
237 from each retail licensee at the time of sale in accordance with  
238 the following schedule:

- 239 (a) Distilled spirits..... \$2.50 per gallon  
240 (b) Sparkling wine and champagne..... \$1.00 per gallon  
241 (c) Other wines, including native  
242 wines..... \$ .35 per gallon

243 (2) (a) In addition to the tax levied by subsection (1) of  
244 this section, and in addition to any other markup collected, the  
245 holder of a wholesale alcoholic beverage distribution permit shall  
246 collect a markup of three percent (3%) on all alcoholic beverages,  
247 as defined in Section 67-1-5, Mississippi Code of 1972, which are  
248 sold by the holder of a wholesale alcoholic beverage distribution  
249 permit. The proceeds of the markup shall be collected by the  
250 holder of a wholesale alcoholic beverage distribution permit from  
251 each purchaser at the time of purchase.

252 \* \* \*

253           (b) \* \* \* The revenue derived from this three percent  
254 (3%) markup shall be deposited by the State Tax Commission in the  
255 State Treasury to the credit of the "Mental Health Programs Fund,"  
256 a special fund which is hereby created in the State Treasury and  
257 shall be used by the State Department of Mental Health for the  
258 service programs of the department. \* \* \*

259           (c) All revenue derived from the excise tax levied in  
260 subsection (1) shall be deposited by the State Tax Commission in  
261 the State General Fund.

262           The revenue derived from this tax and markup that is  
263 collected by the holder of a wholesale alcoholic beverage  
264 distribution permit shall be remitted by the holder of the  
265 wholesale alcoholic beverage distribution permit to the State Tax  
266 Commission at times prescribed by the commission.

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

269           27-71-9. The commission may promulgate regulations  
270 authorizing persons holding on-premises retailer's permits for  
271 common carriers, as provided herein, to file periodic reports and  
272 pay a tax based upon the value of alcoholic beverages sold while  
273 in this state \* \* \*.

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

276           27-71-15. Except as otherwise provided in Section 67-9-1 for  
277 the transportation of limited amounts of alcoholic beverages for  
278 the use of an alcohol processing permittee, if transportation  
279 requires passage through a county which has not authorized the  
280 sale of alcoholic beverages, such transportation shall be by a  
281 sealed vehicle. Such seal shall remain unbroken until the vehicle  
282 shall reach the place of business operated by the permittee. The  
283 operator of any vehicle transporting alcoholic beverages shall  
284 have in his possession an invoice issued by the holder of a  
285 wholesale alcoholic beverage distribution permit at the time of



286 the wholesale sale covering the merchandise transported by the  
287 vehicle. The commission is authorized to issue regulations  
288 controlling the transportation of alcoholic beverages.

289 When the restrictions imposed by this section and by the  
290 regulation of the commission have not been violated, the person  
291 transporting alcoholic beverages through a county wherein the sale  
292 of alcoholic beverages is prohibited shall not be guilty of  
293 unlawful possession and such merchandise shall be immune from  
294 seizure.

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

297 27-71-21. Before any person shall engage in the business of  
298 manufacturing, distributing or retailing of alcoholic beverages,  
299 he may be required to enter into a bond payable to the State of  
300 Mississippi, conditioned that he will conduct said business  
301 strictly in accordance with the laws of the State of Mississippi,  
302 and that he will comply with the rules and regulations prescribed  
303 by the commission, and pay all taxes due the State of Mississippi.  
304 The amount of bond required of a wholesale distributor shall be  
305 set by the commission; the amount of a bond required of a  
306 manufacturer, not including a producer of native wine, shall not  
307 exceed One Hundred Thousand Dollars (\$100,000.00), and the amount  
308 required of a retailer shall be Five Thousand Dollars (\$5,000.00).  
309 Provided, however, any retailer whose check for purchase of  
310 merchandise or payment of taxes shall be dishonored may be  
311 required by the commission to post additional bond not to exceed  
312 Five Thousand Dollars (\$5,000.00). Such bond shall be made in a  
313 surety company authorized to do business in the State of  
314 Mississippi and shall be approved by the commission. The  
315 commission shall be authorized to institute suit in the proper  
316 court for any violation of the condition of said bonds. The  
317 amount of the bond required of a producer of native wine shall be  
318 Five Thousand Dollars (\$5,000.00).

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

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

332           67-1-5. For the purposes of this chapter and unless  
333 otherwise required by the context:

334           (a) "Alcoholic beverage" means any alcoholic liquid,  
335 including wines of more than five percent (5%) of alcohol by  
336 weight, capable of being consumed as a beverage by a human being,  
337 but shall not include wine containing five percent (5%) or less of  
338 alcohol by weight and shall not include beer containing not more  
339 than five percent (5%) of alcohol by weight, as provided for in  
340 Section 67-3-5, Mississippi Code of 1972, but shall include native  
341 wines. The words "alcoholic beverage" shall not include ethyl  
342 alcohol manufactured or distilled solely for fuel purposes.

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

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

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

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

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

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

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

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

374 (j) "Division" means the Alcoholic Beverage Control  
375 Division of the State Tax Commission.

376 (k) "Municipality" means any incorporated city or town  
377 of this state.

378 (l) "Hotel" means an establishment within a  
379 municipality, or within a qualified resort area approved as such  
380 by the commission, where, in consideration of payment, food and  
381 lodging are habitually furnished to travelers and wherein are  
382 located at least twenty (20) adequately furnished and completely  
383 separate sleeping rooms with adequate facilities that persons

384 usually apply for and receive as overnight accommodations. Hotels  
385 in towns or cities of more than twenty-five thousand (25,000)  
386 population are similarly defined except that they must have fifty  
387 (50) or more sleeping rooms. Any such establishment described in  
388 this paragraph with less than fifty (50) beds shall operate one or  
389 more regular dining rooms designed to be constantly frequented by  
390 customers each day. When used in this chapter, the word "hotel"  
391 shall also be construed to include any establishment that meets  
392 the definition of "bed and breakfast inn" as provided in this  
393 section.

394 (m) "Restaurant" means a place which is regularly and  
395 in a bona fide manner used and kept open for the serving of meals  
396 to guests for compensation, which has suitable seating facilities  
397 for guests, and which has suitable kitchen facilities connected  
398 therewith for cooking an assortment of foods and meals commonly  
399 ordered at various hours of the day; the service of such food as  
400 sandwiches and salads only shall not be deemed in compliance with  
401 this requirement. No place shall qualify as a restaurant under  
402 this chapter unless twenty-five percent (25%) or more of the  
403 revenue derived from such place shall be from the preparation,  
404 cooking and serving of meals and not from the sale of beverages,  
405 or unless the value of food given to and consumed by customers is  
406 equal to twenty-five percent (25%) or more of total revenue.

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

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

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

413 (iii) Maintained by its members through the  
414 payment of annual dues;

415 (iv) Owning, hiring or leasing a building or space  
416 in a building of such extent and character as may be suitable and

417 adequate for the reasonable and comfortable use and accommodation  
418 of its members and their guests;

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

423 (vi) No member, officer, agent or employee of  
424 which is paid, or directly or indirectly receives, in the form of  
425 a salary or other compensation any profit from the distribution or  
426 sale of alcoholic beverages to the club or to members or guests of  
427 the club beyond such salary or compensation as may be fixed and  
428 voted at a proper meeting by the board of directors or other  
429 governing body out of the general revenues of the club.

430 The commission may, in its discretion, waive the five-year  
431 provision of this paragraph. In order to qualify under this  
432 paragraph, a club must file with the commission, at the time of  
433 its application for a license under this chapter, two (2) copies  
434 of a list of the names and residences of its members and similarly  
435 file, within ten (10) days after the election of any additional  
436 member, his name and address. Each club applying for a license  
437 shall also file with the commission at the time of the application  
438 a copy of its articles of association, charter of incorporation,  
439 bylaws or other instruments governing the business and affairs  
440 thereof.

441 (o) "Qualified resort area" means any area or locality  
442 outside of the limits of incorporated municipalities in this state  
443 commonly known and accepted as a place which regularly and  
444 customarily attracts tourists, vacationists and other transients  
445 because of its historical, scenic or recreational facilities or  
446 attractions, or because of other attributes which regularly and  
447 customarily appeal to and attract tourists, vacationists and other  
448 transients in substantial numbers; however, no area or locality

449 shall so qualify as a resort area until it has been duly and  
450 properly approved as such by the commission.

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

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

466 (iii) The term includes:

467 1. The clubhouses associated with the state  
468 park golf courses at the Lefleur's Bluff State Park, the John Kyle  
469 State Park, the Percy Quin State Park and the Hugh White State  
470 Park; and

471 2. The clubhouse and associated golf course  
472 where the golf course is adjacent to one or more planned  
473 residential developments and the golf course and all such  
474 developments collectively include at least seven hundred fifty  
475 (750) acres and at least four hundred (400) residential units.

476 The status of these clubhouses and golf courses as qualified  
477 resort areas does not require any declaration of same by the  
478 commission.

479 (p) "Native wine" means any product, produced in  
480 Mississippi for sale, having an alcohol content not to exceed  
481 twenty-one percent (21%) by weight and made in accordance with

482 revenue laws of the United States, which shall be obtained  
483 primarily from the alcoholic fermentation of the juice of ripe  
484 grapes, fruits, berries or vegetables grown and produced in  
485 Mississippi; provided that bulk, concentrated or fortified wines  
486 used for blending may be produced without this state and used in  
487 producing native wines. The commission shall adopt and promulgate  
488 rules and regulations to permit a producer to import such bulk  
489 and/or fortified wines into this state for use in blending with  
490 native wines without payment of any excise tax that would  
491 otherwise accrue thereon.

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

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

508 (s) "Wholesale alcoholic beverage distributor" means a  
509 person engaged in purchasing, transporting and storing alcoholic  
510 beverages within the State of Mississippi and selling at wholesale  
511 alcoholic beverages to permittees who are authorized to sell  
512 alcoholic beverages at retail.

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

515           67-1-9. (1) It shall be unlawful for any person to  
516 manufacture, distill, brew, sell, possess, import into this state,  
517 export from the state, transport, distribute, warehouse, store,  
518 solicit, take order for, bottle, rectify, blend, treat, mix or  
519 process any alcoholic beverage except as authorized in this  
520 chapter. However, nothing contained herein shall prevent  
521 importers, wineries and distillers of alcoholic beverages from  
522 storing such alcoholic beverages in private bonded warehouses  
523 located within the State of Mississippi, and nothing contained  
524 herein shall prohibit the holder of a wholesale alcoholic beverage  
525 distribution permit from storing alcoholic beverages in private  
526 bonded warehouses located in the State of Mississippi for resale  
527 to authorized permittees. The commission is hereby authorized to  
528 promulgate rules and regulations for the establishment of such  
529 private bonded warehouses and for the control of alcoholic  
530 beverages stored in such warehouses. Additionally, nothing herein  
531 contained shall prevent any duly licensed practicing physician or  
532 dentist from possessing or using alcoholic liquor in the strict  
533 practice of his profession, or prevent any hospital or other  
534 institution caring for sick and diseased persons, from possessing  
535 and using alcoholic liquor for the treatment of bona fide patients  
536 of such hospital or other institution. Any drugstore employing a  
537 licensed pharmacist may possess and use alcoholic liquors in the  
538 combination of prescriptions of duly licensed physicians. The  
539 possession and dispensation of wine by an authorized  
540 representative of any church for the purpose of conducting any  
541 bona fide rite or religious ceremony conducted by such church  
542 shall not be prohibited by this chapter.

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

545           (a) By a fine of not less than One Hundred Dollars  
546 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by  
547 imprisonment in the county jail not less than one (1) week nor



548 more than three (3) months, or both, for the first conviction  
549 under this section.

550 (b) By a fine of not less than One Hundred Dollars  
551 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
552 imprisonment in the county jail not less than sixty (60) days, nor  
553 more than six (6) months, or both fine and imprisonment, for the  
554 second conviction for violating this section.

555 (c) By a fine of not less than One Hundred Dollars  
556 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by  
557 imprisonment in the State Penitentiary not less than one (1) year,  
558 nor more than five (5) years, or both fine and imprisonment, for  
559 conviction the third time under this section for the violation  
560 thereof after having been twice convicted of its violation.

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

563 **[Until July 1, 2007, this section will read as follows:]**

564 67-1-37. The State Tax Commission, under its duties and  
565 powers with respect to the Alcoholic Beverage Control Division  
566 therein, shall have the following powers, functions and duties:

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

571 (b) To revoke, suspend or cancel, for violation of or  
572 noncompliance with the provisions of this chapter, or the law  
573 governing the production and sale of native wines, or any lawful  
574 rules and regulations of the commission issued hereunder, or for  
575 other sufficient cause, any permit issued by it under the  
576 provisions of this chapter; however, no such permit shall be  
577 revoked, suspended or cancelled except after a hearing of which  
578 the permit holder shall have been given reasonable notice and an  
579 opportunity to be heard. The commission shall be authorized to  
580 suspend the permit of any permit holder for being out of

581 compliance with an order for support, as defined in Section  
582 93-11-153. The procedure for suspension of a permit for being out  
583 of compliance with an order for support, and the procedure for the  
584 reissuance or reinstatement of a permit suspended for that  
585 purpose, and the payment of any fees for the reissuance or  
586 reinstatement of a permit suspended for that purpose, shall be  
587 governed by Section 93-11-157 or Section 93-11-163, as the case  
588 may be. If there is any conflict between any provision of Section  
589 93-11-157 or Section 93-11-163 and any provision of this chapter,  
590 the provisions of Section 93-11-157 or Section 93-11-163, as the  
591 case may be, shall control.

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

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

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

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

609 (g) Subject to the provisions of \* \* \* Section  
610 67-1-51(3), to issue rules and regulations governing the issuance  
611 of retail permits for premises located near or around schools,  
612 colleges, universities, churches and other public institutions,  
613 and specifying the distances therefrom within which no such permit

614 shall be issued. The Alcoholic Beverage Control Division shall  
615 not allow the sale or consumption of alcoholic beverages in or on  
616 the campus of any public school or college, and no alcoholic  
617 beverage shall be for sale or consumed at any public athletic  
618 event at any grammar or high school or any college.

619 (h) To adopt and promulgate, repeal and amend, such  
620 rules, regulations, standards, requirements and orders, not  
621 inconsistent with this chapter or any law of this state or of the  
622 United States, as it deems necessary to control the manufacture,  
623 importation, transportation, distribution and sale of alcoholic  
624 liquor, whether intended for beverage or nonbeverage use in a  
625 manner not inconsistent with the provisions of this chapter or any  
626 other statute, including the native wine laws.

627 (i) To call upon other administrative departments of  
628 the state, county and municipal governments, county and city  
629 police departments and upon prosecuting officers for such  
630 information and assistance as it may deem necessary in the  
631 performance of its duties.

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

638 (k) To inspect, or cause to be inspected, any premises  
639 where alcoholic liquors intended for sale are manufactured,  
640 stored, distributed or sold, and to examine or cause to be  
641 examined all books and records pertaining to the business  
642 conducted therein.

643 (l) In the conduct of any hearing authorized to be held  
644 by the commission, to hear testimony and take proof material for  
645 its information in the discharge of its duties under this chapter;  
646 to issue subpoenas, which shall be effective in any part of this

647 state, requiring the attendance of witnesses and the production of  
648 books and records; to administer or cause to be administered  
649 oaths; and to examine or cause to be examined any witness under  
650 oath. Any court of record, or any judge thereof, may by order  
651 duly entered require the attendance of witnesses and the  
652 production of relevant books subpoenaed by the commission, and  
653 such court or judge may compel obedience to its or his order by  
654 proceedings for contempt.

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

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

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

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

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

679 (r) To enforce the provisions made unlawful by Sections  
680 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

683 **[From and after July 1, 2007, this section will read as**  
684 **follows:]**

685 67-1-37. The State Tax Commission, under its duties and  
686 powers with respect to the Alcoholic Beverage Control Division  
687 therein, shall have the following powers, functions and duties:

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

692 (b) To revoke, suspend or cancel, for violation of or  
693 noncompliance with the provisions of this chapter, or the law  
694 governing the production and sale of native wines, or any lawful  
695 rules and regulations of the commission issued hereunder, or for  
696 other sufficient cause, any permit issued by it under the  
697 provisions of this chapter; however, no such permit shall be  
698 revoked, suspended or cancelled except after a hearing of which  
699 the permit holder shall have been given reasonable notice and an  
700 opportunity to be heard. The commission shall be authorized to  
701 suspend the permit of any permit holder for being out of  
702 compliance with an order for support, as defined in Section  
703 93-11-153. The procedure for suspension of a permit for being out  
704 of compliance with an order for support, and the procedure for the  
705 reissuance or reinstatement of a permit suspended for that  
706 purpose, and the payment of any fees for the reissuance or  
707 reinstatement of a permit suspended for that purpose, shall be  
708 governed by Section 93-11-157 or 93-11-163, as the case may be.  
709 If there is any conflict between any provision of Section  
710 93-11-157 or 93-11-163 and any provision of this chapter, the

711 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
712 shall control.

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

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

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

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

730 (g) Subject to the provisions of \* \* \* Section  
731 67-1-51(3), to issue rules and regulations governing the issuance  
732 of retail permits for premises located near or around schools,  
733 colleges, universities, churches and other public institutions,  
734 and specifying the distances therefrom within which no such permit  
735 shall be issued. The Alcoholic Beverage Control Division shall  
736 not allow the sale or consumption of alcoholic beverages in or on  
737 the campus of any public school or college, and no alcoholic  
738 beverage shall be for sale or consumed at any public athletic  
739 event at any grammar or high school or any college.

740 (h) To adopt and promulgate, repeal and amend, such  
741 rules, regulations, standards, requirements and orders, not  
742 inconsistent with this chapter or any law of this state or of the  
743 United States, as it deems necessary to control the manufacture,

744 importation, transportation, distribution and sale of alcoholic  
745 liquor, whether intended for beverage or nonbeverage use in a  
746 manner not inconsistent with the provisions of this chapter or any  
747 other statute, including the native wine laws.

748           (i) To call upon other administrative departments of  
749 the state, county and municipal governments, county and city  
750 police departments and upon prosecuting officers for such  
751 information and assistance as it may deem necessary in the  
752 performance of its duties.

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

759           (k) To inspect, or cause to be inspected, any premises  
760 where alcoholic liquors intended for sale are manufactured,  
761 stored, distributed or sold, and to examine or cause to be  
762 examined all books and records pertaining to the business  
763 conducted therein.

764           (l) In the conduct of any hearing authorized to be held  
765 by the commission, to hear testimony and take proof material for  
766 its information in the discharge of its duties under this chapter;  
767 to issue subpoenas, which shall be effective in any part of this  
768 state, requiring the attendance of witnesses and the production of  
769 books and records; to administer or cause to be administered  
770 oaths; and to examine or cause to be examined any witness under  
771 oath. Any court of record, or any judge thereof, may by order  
772 duly entered require the attendance of witnesses and the  
773 production of relevant books subpoenaed by the commission, and  
774 such court or judge may compel obedience to its or his order by  
775 proceedings for contempt.

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

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

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

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

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

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

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

804 67-1-41. \* \* \*

805 (1) No person for the purpose of sale shall manufacture,  
806 distill, brew, sell, possess, export, transport, distribute,  
807 warehouse, store, solicit, take orders for, bottle, rectify,  
808 blend, treat, mix or process any alcoholic beverage except in



809 accordance with authority granted under this chapter, or as  
810 otherwise provided by law for native wines.

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

815 (3) The commission may promulgate rules and regulations  
816 which authorize on-premises retailers to purchase limited amounts  
817 of alcoholic beverages from package retailers and for package  
818 retailers to purchase limited amounts of alcoholic beverages from  
819 other package retailers. The commission shall develop and provide  
820 forms to be completed by the on-premises retailers and the package  
821 retailers verifying the transaction. The completed forms shall be  
822 forwarded to the commission within a period of time prescribed by  
823 the commission.

824 \* \* \*

825 (4) The commission shall maintain all forms to be completed  
826 by applicants necessary for licensure by the commission at all  
827 district offices of the commission.

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

838 (6) The commission may promulgate rules disallowing open  
839 product sampling of alcoholic beverages or wines by the holders of  
840 package retailer's permits and permitting open product sampling of  
841 alcoholic beverages by the holders of on-premises retailer's

842 permits. Permitted sample products shall be plainly identified  
843 "sample" and the actual sampling must occur in the presence of the  
844 manufacturer's representatives during the legal operating hours of  
845 on-premises retailers.

846 (7) The commission may promulgate rules and regulations that  
847 authorize the holder of a research permit to import and purchase  
848 limited amounts of alcoholic beverages from importers, wineries,  
849 distillers and wholesale distributors of alcoholic  
850 beverages \* \* \*. The commission shall develop and provide forms  
851 to be completed by the research permittee verifying each  
852 transaction. The completed forms shall be forwarded to the  
853 commission within a period of time prescribed by the commission.  
854 The records and inventory of alcoholic beverages shall be open to  
855 inspection at any time by the Director of the Alcoholic Beverage  
856 Control Division or any duly authorized agent.

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

859 67-1-43. Any authorized retail distributor who shall  
860 purchase or receive intoxicating liquor from any source except  
861 from the holder of a wholesale alcoholic beverage distribution  
862 permit, unless authorized by rules and regulations of the  
863 commission promulgated under subsection (4) of Section 67-1-41,  
864 shall be guilty of a misdemeanor and upon conviction thereof shall  
865 be punished by a fine of not less than Five Hundred Dollars  
866 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to  
867 which may be added imprisonment in the county jail for not more  
868 than six (6) months. Any authorization of such person to sell  
869 intoxicating beverages may be revoked as provided by law.

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

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

875           67-1-45. No manufacturer, rectifier, \* \* \* distiller or  
876 wholesale distributor of intoxicating liquor shall sell or attempt  
877 to sell any such intoxicating liquor, except malt liquor, within  
878 the State of Mississippi, except as authorized in this chapter. A  
879 producer of native wine may sell native wines to an authorized  
880 retail distributor or directly to consumers.

881           Any violation of this section by any manufacturer, rectifier,  
882 or distiller shall be punished by a fine of not less than Five  
883 Hundred Dollars (\$500.00), and not more than Two Thousand Dollars  
884 (\$2,000.00), to which may be added imprisonment in the county jail  
885 not to exceed six (6) months.

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

888           67-1-51. (1) Permits which may be issued by the commission  
889 shall be as follows:

890           (a) **Manufacturer's permit.** A manufacturer's permit  
891 shall permit the manufacture, importation in bulk, bottling and  
892 storage of alcoholic liquor and its distribution and sale to  
893 manufacturers holding permits under this chapter in this state and  
894 to persons outside the state who are authorized by law to purchase  
895 the same \* \* \*. Manufacturer's permits shall be of the following  
896 classes:

897           Class 1. Distiller's and/or rectifier's permit, which shall  
898 authorize the holder thereof to operate a distillery for the  
899 production of distilled spirits by distillation or redistillation  
900 and/or to operate a rectifying plant for the purifying, refining,  
901 mixing, blending, flavoring or reducing in proof of distilled  
902 spirits and alcohol.

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

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

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

923           (c) **On-premises retailer's permit.** An on-premises  
924 retailer's permit shall authorize the sale of alcoholic beverages,  
925 including native wines, for consumption on the licensed premises  
926 only. Such a permit shall issue only to qualified hotels,  
927 restaurants and clubs, and to common carriers with adequate  
928 facilities for serving passengers. In resort areas, whether  
929 inside or outside of a municipality, the commission may, in its  
930 discretion, issue on-premises retailer's permits to such  
931 establishments as it deems proper. An on-premises retailer's  
932 permit when issued to a common carrier shall authorize the sale  
933 and serving of alcoholic beverages aboard any licensed vehicle  
934 while moving through any county of the state; however, the sale of  
935 such alcoholic beverages shall not be permitted while such vehicle  
936 is stopped in a county that has not legalized such sales.

937           (d) **Solicitor's permit.** A solicitor's permit shall  
938 authorize the holder thereof to act as salesman for a manufacturer

939 or wholesaler holding a proper permit, to solicit on behalf of his  
940 employer orders for alcoholic beverages, and to otherwise promote  
941 his employer's products in a legitimate manner. Such a permit  
942 shall authorize the representation of and employment by one (1)  
943 principal only. However, the permittee may also, in the  
944 discretion of the commission, be issued additional permits to  
945 represent other principals. No such permittee shall buy or sell  
946 alcoholic beverages for his own account, and no such beverage  
947 shall be brought into this state in pursuance of the exercise of  
948 such permit otherwise than through a permit issued to a wholesaler  
949 or manufacturer in the state.

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

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

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

963 Class 1. A temporary one-day permit may be issued to bona  
964 fide nonprofit civic or charitable organizations authorizing the  
965 sale of alcoholic beverages, including native wine, for  
966 consumption on the premises described in the temporary permit  
967 only. Class 1 permits may be issued only to applicants  
968 demonstrating to the commission, by affidavit submitted ten (10)  
969 days prior to the proposed date or such other time as the  
970 commission may determine, that they meet the qualifications of  
971 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57

972 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall  
973 obtain all alcoholic beverages from package retailers located in  
974 the county in which the temporary permit is issued. Alcoholic  
975 beverages remaining in stock upon expiration of the temporary  
976 permit may be returned by the permittee to the package retailer  
977 for a refund of the purchase price upon consent of the package  
978 retailer or may be kept by the permittee exclusively for personal  
979 use and consumption, subject to all laws pertaining to the illegal  
980 sale and possession of alcoholic beverages. The commission,  
981 following review of the affidavit and the requirements of the  
982 applicable statutes and regulations, may issue the permit.

983 Class 2. A temporary permit, not to exceed seventy (70)  
984 days, may be issued to prospective permittees seeking to transfer  
985 a permit authorized in either paragraph (b) or (c) of this  
986 section. A Class 2 permit may be issued only to applicants  
987 demonstrating to the commission, by affidavit, that they meet the  
988 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),  
989 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The  
990 commission, following a preliminary review of the affidavit and  
991 the requirements of the applicable statutes and regulations, may  
992 issue the permit.

993 Class 2 temporary permittees must purchase their alcoholic  
994 beverages directly from the commission or, with approval of the  
995 commission, purchase the remaining stock of the previous  
996 permittee. If the proposed applicant of a Class 1 or Class 2  
997 temporary permit falsifies information contained in the  
998 application or affidavit, the applicant shall never again be  
999 eligible for a retail alcohol beverage permit and shall be subject  
1000 to prosecution for perjury.

1001 (g) **Caterer's permit.** A caterer's permit shall permit  
1002 the purchase of alcoholic beverages by a person engaging in  
1003 business as a caterer and the resale of alcoholic beverages by  
1004 such person in conjunction with such catering business. No person

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

1030           (h) **Research Permit.** A research permit shall authorize  
1031 the holder thereof to operate a research facility for the  
1032 professional research of alcoholic beverages. Such permit shall  
1033 authorize the holder of the permit to import and purchase limited  
1034 amounts of alcoholic beverages from \* \* \* importers, wineries,  
1035 distillers and distributors of alcoholic beverages for  
1036 professional research.

1037           (i) **Alcohol processing permit.** An alcohol processing  
1038 permit shall authorize the holder thereof to purchase, transport  
1039 and possess alcoholic beverages for the exclusive use in cooking,  
1040 processing or manufacturing products which contain alcoholic  
1041 beverages as an integral ingredient. An alcohol processing permit  
1042 shall not authorize the sale of alcoholic beverages on the  
1043 premises of the person engaging in the business of cooking,  
1044 processing or manufacturing products which contain alcoholic  
1045 beverages. The amounts of alcoholic beverages allowed under an  
1046 alcohol processing permit shall be set by the commission.

1047           (j) **Wholesale alcoholic beverage distribution permit.**  
1048 A wholesale alcoholic beverage distribution permit shall be issued  
1049 only to private entities who are granted the authority to  
1050 distribute alcoholic beverages pursuant to Section 2, House Bill  
1051 No. \_\_\_\_\_, 2006 Regular Session. Such permit shall authorize the  
1052 holder thereof to purchase for resale, to store and to distribute  
1053 to authorized permittees, alcoholic beverages. Such permit shall  
1054 entitle the holder thereof to purchase alcoholic beverages from  
1055 any manufacturer or importer for the purpose of resale in this  
1056 state to permittees that are authorized to sell alcoholic  
1057 beverages at retail. The holder of a wholesale alcoholic beverage  
1058 distribution permit may transport alcoholic beverages into the  
1059 State of Mississippi and store such alcoholic beverages in a  
1060 private bonded warehouse of such permittee's choice for sale to  
1061 permittees who are authorized to sell alcoholic beverages at  
1062 retail. The holder of a wholesale alcoholic beverage distribution  
1063 permit may solicit orders for alcoholic beverages from any  
1064 permittee that is authorized to sell alcoholic beverages at  
1065 retail. Records of such orders shall be kept and maintained for a  
1066 period of three (3) years after the order is taken and shall be  
1067 subject to inspection by the division at any time without prior  
1068 notice.



1069           (2) Except as otherwise provided in subsection (4) of this  
1070 section, retail permittees may hold more than one (1) retail  
1071 permit, at the discretion of the commission.

1072           (3) Except as otherwise provided in this subsection, no  
1073 authority shall be granted to any person to manufacture, sell or  
1074 store for sale any intoxicating liquor as specified in this  
1075 chapter within four hundred (400) feet of any church, school,  
1076 kindergarten or funeral home. However, within an area zoned  
1077 commercial or business, such minimum distance shall be not less  
1078 than one hundred (100) feet.

1079           A church or funeral home may waive the distance restrictions  
1080 imposed in this subsection in favor of allowing issuance by the  
1081 commission of a permit, pursuant to subsection (1) of this  
1082 section, to authorize activity relating to the manufacturing, sale  
1083 or storage of alcoholic beverages which would otherwise be  
1084 prohibited under the minimum distance criterion. Such waiver  
1085 shall be in written form from the owner, the governing body, or  
1086 the appropriate officer of the church or funeral home having the  
1087 authority to execute such a waiver, and the waiver shall be filed  
1088 with and verified by the commission before becoming effective.

1089           The distance restrictions imposed in this subsection shall  
1090 not apply to the sale or storage of alcoholic beverages at a bed  
1091 and breakfast inn listed in the National Register of Historic  
1092 Places.

1093           (4) No person, either individually or as a member of a firm,  
1094 partnership or association, or as a stockholder, officer or  
1095 director in a corporation, shall own or control any interest in  
1096 more than one (1) package retailer's permit, nor shall such  
1097 person's spouse, if living in the same household of such person,  
1098 any relative of such person, if living in the same household of  
1099 such person, or any other person living in the same household with  
1100 such person own any interest in any other package retailer's  
1101 permit.

1102           **SECTION 16.** Section 67-1-77, Mississippi Code of 1972, is  
1103 amended as follows:

1104           67-1-77. (1) It shall be unlawful for the holder of a  
1105 manufacturer's or wholesaler's permit, or anyone connected with  
1106 the business of such holder, or for any other distiller, wine  
1107 manufacturer, wholesale distributor, brewer, rectifier, blender or  
1108 bottler, to have any financial interest in any premises upon which  
1109 any alcoholic beverage is sold at retail by any permittee, or in  
1110 the business conducted by such permittee; provided, however, the  
1111 holder of a manufacturer's or wholesaler's permit may contract for  
1112 the service of a representative in the area of governmental  
1113 affairs on a part-time basis with a holder of an on-premises  
1114 permit.

1115           (2) It shall also be unlawful for any such person, or anyone  
1116 connected with his, its, or their business to lend any money or  
1117 make any gift or offer any gratuity, to any retail permittee,  
1118 except as authorized by regulations of the commission, to the  
1119 holder of any retail permit issued under the provisions of this  
1120 chapter. Except as above provided, no retail permittee shall  
1121 accept, receive, or make use of any money or gift furnished by any  
1122 such person, or become indebted to such person except for the  
1123 purchase of alcoholic beverages.

1124           (3) The commission shall not prohibit the furnishing of  
1125 advertising specialties, printed materials, or other things having  
1126 nominal value to a retail permittee. This section shall not be  
1127 construed to prohibit the possession by any person of advertising  
1128 specialties, printed materials, or other things having nominal  
1129 value furnished by a retail permittee.

1130           (4) Any person violating the provisions of this section  
1131 shall, upon conviction, be punished by a fine of not more than  
1132 Five Thousand Dollars (\$5,000.00) or by imprisonment for not more  
1133 than two (2) years, or by both such fine and imprisonment, in the  
1134 discretion of the court.

1135           **SECTION 17.** Section 67-1-79, Mississippi Code of 1972, is  
1136 amended as follows:

1137           67-1-79. \* \* \* Each delivery of any alcoholic beverage to a  
1138 retail permittee shall be accompanied by an invoice of sale or  
1139 delivery slip which shall bear as its date the date of delivery of  
1140 such alcoholic beverage.

1141           **SECTION 18.** Sections 27-71-11, 27-71-13, 27-71-17, 27-71-19,  
1142 67-1-47 and 67-1-49, Mississippi Code of 1972, which authorize the  
1143 State Tax Commission to request the State Bond Commission to  
1144 provide sufficient funds required to maintain an adequate  
1145 alcoholic beverage inventory, require the State Tax Commission to  
1146 purchase directly from the manufacturer, provide penalties for  
1147 selling alcoholic beverages not identified as having been  
1148 purchased by the commission, require distillers and distributors  
1149 dealing with the State Tax Commission to register with the  
1150 Secretary of State and require distillers having contracts with  
1151 the State Tax Commission to file statements of salary expenses,  
1152 are repealed.

1153           **SECTION 19.** Sections 1, 2 and 3 of this act shall take  
1154 effect and be in force from and after their passage; the remainder  
1155 shall take effect and be in force from and after January 1, 2006.