

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2454

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

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

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

11 67-5-11. * * * Within the State of Mississippi, every native
12 winery is authorized to make sales to the commission * * * or to
13 consumers at the location of the native winery or its immediate
14 vicinity. Every native winery is authorized to make sales to any
15 producer, manufacturer, wholesaler, retailer or consumer located
16 outside of the State of Mississippi who are authorized by law to
17 purchase the same.

18 * * *

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

21 67-5-13. (1) Upon every producer holding a permit for the
22 production of native wine, there is hereby levied and imposed for
23 each location for the privilege of engaging and continuing in this
24 state in the production of native wine an annual privilege license
25 tax in an amount equal to Ten Dollars (\$10.00) for each ten
26 thousand (10,000) gallons, or any part thereof, of native wine
27 produced by the winery.

28 (2) There is hereby levied and assessed an excise tax upon
29 each case of native wine sold by a producer to any source to be

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

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

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

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

52 67-1-41. (1) The State Tax Commission is hereby created a
53 wholesale distributor and seller of alcoholic beverages, not
54 including malt liquors, within the State of Mississippi. It is
55 granted the sole right to import and sell such intoxicating
56 liquors at wholesale within the state, and no person who is
57 granted the right to sell, distribute or receive such liquors at
58 retail shall purchase any such intoxicating liquors from any
59 source other than the commission except as authorized in
60 subsections (4) and (9) * * *. The commission may establish
61 warehouses, purchase intoxicating liquors in such quantities and
62 from such sources as it may deem desirable and sell the same to

63 authorized permittees within the state including, at the
64 discretion of the commission, any retail distributors operating
65 within any military post or qualified resort areas within the
66 boundaries of the state, keeping a correct and accurate record of
67 all such transactions and exercising such control over the
68 distribution of alcoholic beverages as seem right and proper in
69 keeping with the provisions or purposes of this chapter.

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

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

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

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

87 (4) The commission may promulgate rules and regulations
88 which authorize on-premises retailers to purchase limited amounts
89 of alcoholic beverages from package retailers and for package
90 retailers to purchase limited amounts of alcoholic beverages from
91 other package retailers. The commission shall develop and provide
92 forms to be completed by the on-premises retailers and the package
93 retailers verifying the transaction. The completed forms shall be
94 forwarded to the commission within a period of time prescribed by
95 the commission.

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

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

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

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

123 (9) The commission may promulgate rules and regulations that
124 authorize the holder of a research permit to import and purchase
125 limited amounts of alcoholic beverages from importers, wineries
126 and distillers of alcoholic beverages or from the commission. The
127 commission shall develop and provide forms to be completed by the
128 research permittee verifying each transaction. The completed

forms shall be forwarded to the commission within a period of time prescribed by the commission. The records and inventory of alcoholic beverages shall be open to inspection at any time by the Director of the Alcoholic Beverage Control Division or any duly authorized agent.

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

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

* * *

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

67-1-45. No manufacturer, rectifier, or distiller of intoxicating liquor shall sell or attempt to sell any such intoxicating liquor, except malt liquor, within the State of Mississippi, except to the commission, or to the holder of a research permit as provided in Section 67-1-41. * * * A producer of native wine may sell native wines to the commission or to consumers at the location of the native winery or its immediate vicinity.

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

162 **SECTION 6.** This act shall take effect and be in force from
163 and after July 1, 2006.