

By: Senator(s) Fillingane (By Request)

To: Finance

SENATE BILL NO. 2359

1 AN ACT TO AMEND SECTIONS 67-1-57 AND 67-1-71, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT ON-PREMISES RETAILER'S ALCOHOL  
3 PERMIT HOLDERS MUST HAVE LIQUOR LIABILITY INSURANCE PROVIDING  
4 MINIMUM AMOUNTS OF COVERAGE AS REQUIRED BY THE STATE TAX  
5 COMMISSION; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 67-1-57, Mississippi Code of 1972, is  
8 amended as follows:

9 67-1-57. Before a permit is issued the commission shall  
10 satisfy itself:

11 (a) That the applicant, if an individual, or if a  
12 partnership, each of the members of the partnership, or if a  
13 corporation, each of its principal officers and directors, or if a  
14 limited liability company, each member of the limited liability  
15 company, is of good moral character and, in addition, enjoys a  
16 reputation of being a peaceable, law-abiding citizen of the  
17 community in which he resides, and is generally fit for the trust  
18 to be reposed in him, is not less than twenty-one (21) years of  
19 age, and has not been convicted of a felony in any state or  
20 federal court.

21 (b) That, except in the case of an application for a  
22 solicitor's permit, the applicant is the true and actual owner of  
23 the business for which the permit is desired, and that he intends  
24 to carry on the business authorized for himself and not as the  
25 agent of any other person, and that he intends to superintend in  
26 person the management of the business or that he will designate a  
27 manager to manage the business for him; any manager must be

28 approved by the commission and must possess all of the  
29 qualifications required of a permittee.

30 (c) That the applicant for a package retailer's permit,  
31 if an individual, is a resident of the State of Mississippi. If  
32 the applicant is a partnership, each member of the partnership  
33 must be a resident of the state. If the applicant is a limited  
34 liability company, each member of the limited liability company  
35 must be a resident of the state. If the applicant is a  
36 corporation, the designated manager of the corporation must be a  
37 resident of the state.

38 (d) That the place for which the permit is to be issued  
39 is an appropriate one considering the character of the premises  
40 and the surrounding neighborhood.

41 (e) That the place for which the permit is to be issued  
42 is within the corporate limits of an incorporated municipality or  
43 qualified resort area or club which comes within the provisions of  
44 this chapter.

45 (f) That the applicant is not indebted to the state for  
46 any taxes, fees or payment of penalties imposed by any law of the  
47 State of Mississippi or by any rule or regulation of the  
48 commission.

49 (g) That the applicant is not in the habit of using  
50 alcoholic beverages to excess and is not physically or mentally  
51 incapacitated, and that the applicant has the ability to read and  
52 write the English language.

53 (h) That the commission does not believe and has no  
54 reason to believe that the applicant will sell or knowingly permit  
55 any agent, servant or employee to unlawfully sell liquor in a dry  
56 area or in any other manner contrary to law.

57 (i) That the applicant is not residentially domiciled  
58 with any person whose permit or license has been cancelled for  
59 cause within the twelve (12) months next preceding the date of the  
60 present application for a permit.

61           (j) That the commission has not, in the exercise of its  
62 discretion which is reserved and preserved to it, refused to grant  
63 permits under the restrictions of this section, as well as under  
64 any other pertinent provision of this chapter.

65           (k) That there are not sufficient legal reasons to deny  
66 a permit on the ground that the premises for which the permit is  
67 sought has previously been operated, used or frequented for any  
68 purpose or in any manner that is lewd, immoral or offensive to  
69 public decency. In the granting or withholding of any permit to  
70 sell alcoholic beverages at retail, the commission in forming its  
71 conclusions may give consideration to any recommendations made in  
72 writing by the district or county attorney or county, circuit or  
73 chancery judge of the county, or the sheriff of the county, or the  
74 mayor or chief of police of an incorporated city or town wherein  
75 the applicant proposes to conduct his business and to any  
76 recommendations made by representatives of the commission.

77           (l) That the applicant and the applicant's key  
78 employees, as determined by the commission, do not have a  
79 disqualifying criminal record. In order to obtain a criminal  
80 record history check, the applicant shall submit to the commission  
81 a set of fingerprints from any local law enforcement agency for  
82 each person for whom the records check is required. The  
83 commission shall forward the fingerprints to the Mississippi  
84 Department of Public Safety. If no disqualifying record is  
85 identified at the state level, the Department of Public Safety  
86 shall forward the fingerprints to the Federal Bureau of  
87 Investigation for a national criminal history record check. Costs  
88 for processing the set or sets of fingerprints shall be borne by  
89 the applicant. The commission shall not deny employment to an  
90 employee of the applicant prior to the identification of a  
91 disqualifying record or other disqualifying information.

92           (m) That the applicant for an on-premises retailer's  
93 permit will obtain liquor liability insurance providing minimum  
94 amounts of coverage as required by the commission.

95           **SECTION 2.** Section 67-1-71, Mississippi Code of 1972, is  
96 amended as follows:

97           67-1-71. The commission may revoke or suspend any permit  
98 issued by it for a violation by the permittee of any of the  
99 provisions of this chapter or of the regulations promulgated under  
100 it by the commission.

101           Permits must be revoked or suspended for the following  
102 causes:

103           (a) Conviction of the permittee for the violation of  
104 any of the provisions of this chapter;

105           (b) Willful failure or refusal by any permittee to  
106 comply with any of the provisions of this chapter or of any rule  
107 or regulation adopted pursuant thereto;

108           (c) The making of any materially false statement in any  
109 application for a permit;

110           (d) Conviction of one or more of the clerks, agents or  
111 employees of the permittee, of any violation of this chapter upon  
112 the premises covered by such permit within a period of time as  
113 designated by the rules or regulations of the commission;

114           (e) The possession on the premises of any retail  
115 permittee of any alcoholic beverages upon which the tax has not  
116 been paid;

117           (f) The willful failure of any permittee to keep the  
118 records or make the reports required by this chapter, or to allow  
119 an inspection of such records by any duly authorized person;

120           (g) The suspension or revocation of a permit issued to  
121 the permittee by the federal government, or conviction of  
122 violating any federal law relating to alcoholic beverages;

123           (h) The failure to furnish any bond required by this  
124 chapter within fifteen (15) days after notice from the  
125 commission; \* \* \*

126           (i) The conducting of any form of illegal gambling on  
127 the premises of any permittee or on any premises connected  
128 therewith or the presence on any such premises of any gambling  
129 device with the knowledge of the permittee; and

130           (j) The failure of an on-premises retailer's permittee  
131 to obtain and maintain liquor liability insurance providing  
132 minimum amounts of coverage as required by the commission.

133           The provisions of item (i) of this section shall not apply to  
134 gambling or the presence of any gambling devices, with knowledge  
135 of the permittee, on board a cruise vessel in the waters within  
136 the State of Mississippi, which lie adjacent to the State of  
137 Mississippi south of the three (3) most southern counties in the  
138 State of Mississippi, or on any vessel as defined in Section  
139 27-109-1 whenever such vessel is on the Mississippi River or  
140 navigable waters within any county bordering on the Mississippi  
141 River. The commission may, in its discretion, issue on-premises  
142 retailer's permits to a common carrier of the nature described in  
143 this paragraph.

144           No permit shall be revoked except after a hearing by the  
145 commission with reasonable notice to the permittee and an  
146 opportunity for him to appear and defend.

147           In addition to the causes specified in this section and other  
148 provisions of this chapter, the commission shall be authorized to  
149 suspend the permit of any permit holder for being out of  
150 compliance with an order for support, as defined in Section  
151 93-11-153. The procedure for suspension of a permit for being out  
152 of compliance with an order for support, and the procedure for the  
153 reissuance or reinstatement of a permit suspended for that  
154 purpose, and the payment of any fees for the reissuance or  
155 reinstatement of a permit suspended for that purpose, shall be

156 governed by Section 93-11-157 or 93-11-163, as the case may be.  
157 If there is any conflict between any provision of Section  
158 93-11-157 or 93-11-163 and any provision of this chapter, the  
159 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
160 shall control.

161       **SECTION 3.** This act shall take effect and be in force from  
162 and after July 1, 2007.