

By: Representative Powell

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 845

1 AN ACT TO AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "QUALIFIED RESORT AREA" UNDER THE
3 LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW; TO BRING FORWARD
4 SECTION 67-1-16, MISSISSIPPI CODE OF 1972, WHICH REQUIRES AN
5 ELECTION TO BE HELD BEFORE THE DESIGNATION OF CERTAIN QUALIFIED
6 RESORT AREAS; AND FOR RELATED PURPOSES.

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

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

10 67-1-5. For the purposes of this chapter and unless
11 otherwise required by the context:

12 (a) "Alcoholic beverage" means any alcoholic liquid,
13 including wines of more than five percent (5%) of alcohol by
14 weight, capable of being consumed as a beverage by a human being,
15 but shall not include light wine and beer, as defined in Section
16 67-3-3, Mississippi Code of 1972, but shall include native wines.
17 The words "alcoholic beverage" shall not include ethyl alcohol
18 manufactured or distilled solely for fuel purposes or beer of an
19 alcoholic content of more than eight percent (8%) by weight if the



20 beer is legally manufactured in this state for sale in another
21 state.

22 (b) "Alcohol" means the product of distillation of any
23 fermented liquid, whatever the origin thereof, and includes
24 synthetic ethyl alcohol, but does not include denatured alcohol or
25 wood alcohol.

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

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

34 (e) "Person" means and includes any individual,
35 partnership, corporation, association or other legal entity
36 whatsoever.

37 (f) "Manufacturer" means any person engaged in
38 manufacturing, distilling, rectifying, blending or bottling any
39 alcoholic beverage.

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



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

47 (i) "State Tax Commission," "commission" or
48 "department" means the Department of Revenue of the State of
49 Mississippi, which shall create a division in its organization to
50 be known as the Alcoholic Beverage Control Division. Any
51 reference to the commission or the department hereafter means the
52 powers and duties of the Department of Revenue with reference to
53 supervision of the Alcoholic Beverage Control Division.

54 (j) "Division" means the Alcoholic Beverage Control
55 Division of the Department of Revenue.

56 (k) "Municipality" means any incorporated city or town
57 of this state.

58 (l) "Hotel" means an establishment within a
59 municipality, or within a qualified resort area approved as such
60 by the department, where, in consideration of payment, food and
61 lodging are habitually furnished to travelers and wherein are
62 located at least twenty (20) adequately furnished and completely
63 separate sleeping rooms with adequate facilities that persons
64 usually apply for and receive as overnight accommodations. Hotels
65 in towns or cities of more than twenty-five thousand (25,000)
66 population are similarly defined except that they must have fifty
67 (50) or more sleeping rooms. Any such establishment described in
68 this paragraph with less than fifty (50) beds shall operate one or



69 more regular dining rooms designed to be constantly frequented by
70 customers each day. When used in this chapter, the word "hotel"
71 shall also be construed to include any establishment that meets
72 the definition of "bed and breakfast inn" as provided in this
73 section.

74 (m) "Restaurant" means:

75 (i) A place which is regularly and in a bona fide
76 manner used and kept open for the serving of meals to guests for
77 compensation, which has suitable seating facilities for guests,
78 and which has suitable kitchen facilities connected therewith for
79 cooking an assortment of foods and meals commonly ordered at
80 various hours of the day; the service of such food as sandwiches
81 and salads only shall not be deemed in compliance with this
82 requirement. Except as otherwise provided in this paragraph, no
83 place shall qualify as a restaurant under this chapter unless
84 twenty-five percent (25%) or more of the revenue derived from such
85 place shall be from the preparation, cooking and serving of meals
86 and not from the sale of beverages, or unless the value of food
87 given to and consumed by customers is equal to twenty-five percent
88 (25%) or more of total revenue; or

89 (ii) Any privately owned business located in a
90 building in a historic district where the district is listed in
91 the National Register of Historic Places, where the building has a
92 total occupancy rating of not less than one thousand (1,000) and
93 where the business regularly utilizes ten thousand (10,000) square



94 feet or more in the building for live entertainment, including not
95 only the stage, lobby or area where the audience sits and/or
96 stands, but also any other portion of the building necessary for
97 the operation of the business, including any kitchen area, bar
98 area, storage area and office space, but excluding any area for
99 parking. In addition to the other requirements of this
100 subparagraph, the business must also serve food to guests for
101 compensation within the building and derive the majority of its
102 revenue from event-related fees, including, but not limited to,
103 admission fees or ticket sales to live entertainment in the
104 building, and from the rental of all or part of the facilities of
105 the business in the building to another party for a specific event
106 or function.

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

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

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

113 (iii) Maintained by its members through the
114 payment of annual dues;

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



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

123 (vi) No member, officer, agent or employee of
124 which is paid, or directly or indirectly receives, in the form of
125 a salary or other compensation any profit from the distribution or
126 sale of alcoholic beverages to the club or to members or guests of
127 the club beyond such salary or compensation as may be fixed and
128 voted at a proper meeting by the board of directors or other
129 governing body out of the general revenues of the club.

130 The department may, in its discretion, waive the five-year
131 provision of this paragraph. In order to qualify under this
132 paragraph, a club must file with the department, at the time of
133 its application for a license under this chapter, two (2) copies
134 of a list of the names and residences of its members and similarly
135 file, within ten (10) days after the election of any additional
136 member, his name and address. Each club applying for a license
137 shall also file with the department at the time of the application
138 a copy of its articles of association, charter of incorporation,
139 bylaws or other instruments governing the business and affairs
140 thereof.

141 (o) "Qualified resort area" means any area or locality
142 outside of the limits of incorporated municipalities in this state
143 commonly known and accepted as a place which regularly and



144 customarily attracts tourists, vacationists and other transients
145 because of its historical, scenic or recreational facilities or
146 attractions, or because of other attributes which regularly and
147 customarily appeal to and attract tourists, vacationists and other
148 transients in substantial numbers; however, no area or locality
149 shall so qualify as a resort area until it has been duly and
150 properly approved as such by the department.

151 (i) The department may approve an area or locality
152 outside of the limits of an incorporated municipality that is in
153 the process of being developed as a qualified resort area if such
154 area or locality, when developed, can reasonably be expected to
155 meet the requisites of the definition of the term "qualified
156 resort area." In such a case, the status of qualified resort area
157 shall not take effect until completion of the development.

158 (ii) The term includes any state park which is
159 declared a resort area by the department; however, such
160 declaration may only be initiated in a written request for resort
161 area status made to the department by the Executive Director of
162 the Department of Wildlife, Fisheries and Parks, and no permit for
163 the sale of any alcoholic beverage, as defined in this chapter,
164 except an on-premises retailer's permit, shall be issued for a
165 hotel, restaurant or bed and breakfast inn in such park.

166 (iii) The term includes:

167 1. The clubhouses associated with the state
168 park golf courses at the Lefleur's Bluff State Park, the John Kyle



169 State Park, the Percy Quin State Park and the Hugh White State
170 Park;

171 2. The clubhouse and associated golf course
172 where the golf course is adjacent to one or more planned
173 residential developments and the golf course and all such
174 developments collectively include at least seven hundred fifty
175 (750) acres and at least four hundred (400) residential units;

176 3. Any facility located on property that is a
177 game reserve with restricted access that consists of at least
178 three thousand (3,000) contiguous acres with no public roads and
179 that offers as a service hunts for a fee to overnight guests of
180 the facility;

181 4. Any facility located on federal property
182 surrounding a lake and designated as a recreational area by the
183 United States Army Corps of Engineers that consists of at least
184 one thousand five hundred (1,500) acres;

185 5. Any facility that is located in a
186 municipality that is bordered by the Pearl River, traversed by
187 Mississippi Highway 25, adjacent to the boundaries of the Jackson
188 International Airport and is located in a county which has voted
189 against coming out from under the dry law; however, any such
190 facility may only be located in areas designated by the governing
191 authorities of such municipality;

192 6. Any municipality with a population in
193 excess of ten thousand (10,000) according to the latest federal



194 decennial census that is located in a county that is bordered by
195 the Pearl River and is not traversed by Interstate Highway 20,
196 with a population in excess of forty-five thousand (45,000)
197 according to the latest federal decennial census; however, the
198 governing authorities of such a municipality may by ordinance:

199 a. Specify the hours of operation of
200 facilities that offer alcoholic beverages for sale;

201 b. Specify the percentage of revenue
202 that facilities that offer alcoholic beverages for sale must
203 derive from the preparation, cooking and serving of meals and not
204 from the sale of beverages;

205 c. Designate the areas in which
206 facilities that offer alcoholic beverages for sale may be located;

207 7. The West Pearl Restaurant Tax District as
208 defined in Chapter 912, Local and Private Laws of 2007;

209 8. Land that is * * * located in any county
210 in which Mississippi Highway 43 and Mississippi Highway 25
211 intersect and:

212 a. Owned by the Pearl River Valley Water
213 Supply District, and/or

214 b. Located within the Reservoir
215 Community District, zoned commercial, east of Old Fannin Road,
216 north of Regatta Drive, south of Spillway Road, west of Hugh Ward
217 Boulevard and accessible by Old Fannin Road, Spillway Road, Spann
218 Drive and/or Lake Vista Place;



219 9. Any facility located on property that is a
220 game reserve with restricted access that consists of at least
221 eight hundred (800) contiguous acres with no public roads, that
222 offers as a service hunts for a fee to overnight guests of the
223 facility, and has accommodations for at least fifty (50) overnight
224 guests;

225 10. Any facility that:

226 a. Consists of at least six thousand
227 (6,000) square feet being heated and cooled along with an
228 additional adjacent area that consists of at least two thousand
229 two hundred (2,200) square feet regardless of whether heated and
230 cooled,

231 b. For a fee is used to host events such
232 as weddings, reunions and conventions,

233 c. Provides lodging accommodations
234 regardless of whether part of the facility and/or located adjacent
235 to or in close proximity to the facility, and

236 d. Is located on property that consists
237 of at least thirty (30) contiguous acres;

238 11. Any facility and related property:

239 a. Located on property that consists of
240 at least one hundred twenty-five (125) contiguous acres and
241 consisting of an eighteen (18) hole golf course, and/or located in
242 a facility that consists of at least eight thousand (8,000) square
243 feet being heated and cooled,



- 244 b. Used for the purpose of providing
245 meals and hosting events, and
- 246 c. Used for the purpose of teaching
247 culinary arts courses and/or turf management and grounds keeping
248 courses, and/or outdoor recreation and leadership courses;
- 249 12. Any facility and related property that:
- 250 a. Consist of at least eight thousand
251 (8,000) square feet being heated and cooled,
- 252 b. For a fee is used to host events,
- 253 c. Is located on property on or near a
254 bayou or other waterway,
- 255 d. Is used for the purpose of culinary
256 arts courses, and/or outdoor recreation and leadership courses.

257 The status of these municipalities, districts, clubhouses,
258 facilities, golf courses and areas described in subparagraph (iii)
259 of this paragraph (o) as qualified resort areas does not require
260 any declaration of same by the department.

261 (p) "Native wine" means any product, produced in
262 Mississippi for sale, having an alcohol content not to exceed
263 twenty-one percent (21%) by weight and made in accordance with
264 revenue laws of the United States, which shall be obtained
265 primarily from the alcoholic fermentation of the juice of ripe
266 grapes, fruits, berries or vegetables grown and produced in
267 Mississippi; provided that bulk, concentrated or fortified wines
268 used for blending may be produced without this state and used in



269 producing native wines. The department shall adopt and promulgate
270 rules and regulations to permit a producer to import such bulk
271 and/or fortified wines into this state for use in blending with
272 native wines without payment of any excise tax that would
273 otherwise accrue thereon.

274 (q) "Native winery" means any place or establishment
275 within the State of Mississippi where native wine is produced, in
276 whole or in part, for sale.

277 (r) "Bed and breakfast inn" means an establishment
278 within a municipality where in consideration of payment, breakfast
279 and lodging are habitually furnished to travelers and wherein are
280 located not less than eight (8) and not more than nineteen (19)
281 adequately furnished and completely separate sleeping rooms with
282 adequate facilities, that persons usually apply for and receive as
283 overnight accommodations; however, such restriction on the minimum
284 number of sleeping rooms shall not apply to establishments on the
285 National Register of Historic Places. No place shall qualify as a
286 bed and breakfast inn under this chapter unless on the date of the
287 initial application for a license under this chapter more than
288 fifty percent (50%) of the sleeping rooms are located in a
289 structure formerly used as a residence.

290 (s) "Board" shall refer to the Board of Tax Appeals of
291 the State of Mississippi.

292 (t) "Spa facility" means an establishment within a
293 municipality or qualified resort area and owned by a hotel where,



294 in consideration of payment, patrons receive from licensed
295 professionals a variety of private personal care treatments such
296 as massages, facials, waxes, exfoliation and hairstyling.

297 (u) "Art studio or gallery" means an establishment
298 within a municipality or qualified resort area that is in the sole
299 business of allowing patrons to view and/or purchase paintings and
300 other creative artwork.

301 (v) "Cooking school" means an establishment within a
302 municipality or qualified resort area and owned by a nationally
303 recognized company that offers an established culinary education
304 curriculum and program where, in consideration of payment, patrons
305 are given scheduled professional group instruction on culinary
306 techniques. For purposes of this paragraph, the definition of
307 cooking school shall not include schools or classes offered by
308 grocery stores, convenience stores or drugstores.

309 **SECTION 2.** Section 67-1-16, Mississippi Code of 1972, is
310 brought forward as follows:

311 67-1-16. (1) (a) Before an area may be designated by the
312 governing authorities of a municipality as an area in which
313 facilities which are defined as qualified resort areas in Section
314 67-1-5(o)(iii)5 may be located, an election shall be held, under
315 the election laws applicable to the municipality, on the question
316 of whether qualified resort areas shall be allowed in the
317 municipality. An election to determine whether qualified resort
318 areas shall be allowed in the municipality shall be ordered by the



319 municipal governing authorities, upon presentation to the
320 governing authorities of a petition containing the names of at
321 least twenty percent (20%) of the duly qualified voters of the
322 municipality asking for the election. An election on the question
323 may not be held by the municipality more often than once each
324 year.

325 (b) Thirty (30) days' notice shall be given to the
326 qualified electors of the municipality, in the manner prescribed
327 by law, on the question of allowing qualified resort areas to be
328 established. The notice shall contain a statement of the question
329 to be voted on at the election. The ballots used in the election
330 shall have the following words printed thereon: "FOR THE
331 ESTABLISHMENT OF QUALIFIED RESORT AREAS," and next below, "AGAINST
332 THE ESTABLISHMENT OF QUALIFIED RESORT AREAS." In marking his
333 ballot, the voter shall make a cross (X) opposite the words of his
334 choice.

335 (c) Qualified resort areas may be established if a
336 majority of the qualified electors voting in the election vote for
337 such establishment. A qualified resort area may not be
338 established if a majority of the qualified electors voting in the
339 election vote against such establishment.

340 (2) (a) Before a municipality may be designated as a
341 qualified resort area as defined in Section 67-1-5(o)(iii)6, an
342 election shall be held, under the election laws applicable to the
343 municipality, on the question of whether the municipality shall be



344 a qualified resort area. An election to determine whether the
345 municipality shall be a qualified resort area shall be ordered by
346 the municipal governing authorities, upon presentation to the
347 governing authorities of a petition containing the names of at
348 least twenty percent (20%) of the duly qualified voters of the
349 municipality asking for the election. An election on the question
350 may not be held by the municipality more often than once each
351 year.

352 (b) Thirty (30) days' notice shall be given to the
353 qualified electors of the municipality, in the manner prescribed
354 by law, on the question of allowing qualified resort areas to be
355 established. The notice shall contain a statement of the question
356 to be voted on at the election. The ballots used in the election
357 shall have the following words printed thereon: "FOR THE
358 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
359 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
360 marking his ballot, the voter shall make a cross (X) opposite the
361 words of his choice.

362 (c) The municipality may be established as a qualified
363 resort area if a majority of the qualified electors voting in the
364 election vote for such establishment. A qualified resort area may
365 not be established if a majority of the qualified electors voting
366 in the election vote against such establishment.

367 (3) (a) Before an area may be designated a qualified resort
368 area as defined in Section 67-1-5(o)(iii)7, an election shall be



369 held in the municipality in which the area is located under the
370 election laws applicable to the municipality, on the question of
371 whether the area shall be a qualified resort area. An election to
372 determine whether the area shall be a qualified resort area shall
373 be ordered by the municipal governing authorities, upon
374 presentation to the governing authorities of a petition containing
375 the names of at least twenty percent (20%) of the duly qualified
376 voters of the municipality asking for the election. An election
377 on the question may not be held by the municipality more often
378 than once each year.

379 (b) Thirty (30) days' notice shall be given to the
380 qualified electors of the municipality, in the manner prescribed
381 by law, on the question of allowing qualified resort areas to be
382 established. The notice shall contain a statement of the question
383 to be voted on at the election. The ballots used in the election
384 shall have the following words printed thereon: "FOR THE
385 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
386 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
387 marking his ballot, the voter shall make a cross (X) opposite the
388 words of his choice.

389 (c) The area may be established as a qualified resort
390 area if a majority of the qualified electors voting in the
391 election vote for such establishment. A qualified resort area may
392 not be established if a majority of the qualified electors voting
393 in the election vote against such establishment.



394 (4) (a) Before an area may be designated a qualified resort
395 area as defined in Section 67-1-5(o)(iii)8, an election shall be
396 held in the area described in Section 67-1-5(o)(iii)8 under the
397 election laws applicable to counties, on the question of whether
398 the area shall be a qualified resort area. An election to
399 determine whether the area shall be a qualified resort area shall
400 be ordered by the board of supervisors, upon presentation to the
401 board of a petition containing the names of at least twenty
402 percent (20%) of the duly qualified voters of the area described
403 in Section 67-1-5(o)(iii)8 asking for the election. An election
404 on the question may not be held by the county more often than once
405 each year.

406 (b) Thirty (30) days' notice shall be given to the
407 qualified electors of the area, in the manner prescribed by law,
408 on the question of allowing qualified resort areas to be
409 established. The notice shall contain a statement of the question
410 to be voted on at the election. The ballots used in the election
411 shall have the following words printed thereon: "FOR THE
412 ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below,
413 "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In
414 marking his ballot, the voter shall make a cross (X) opposite the
415 words of his choice.

416 (c) The area may be established as a qualified resort
417 area if a majority of the qualified electors voting in the
418 election vote for such establishment. A qualified resort area may



419 not be established if a majority of the qualified electors voting
420 in the election vote against such establishment.

421 **SECTION 3.** This act shall take effect and be in force from
422 and after July 1, 2016.

