

By: Representatives DeLano, Baria

To: Ways and Means

HOUSE BILL NO. 1223

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF A
 2 MUNICIPALITY TO ESTABLISH LEISURE AND RECREATION DISTRICTS WITHIN
 3 THE CORPORATE BOUNDARIES OF THE MUNICIPALITY AND DESIGNATE THE
 4 GEOGRAPHIC AREA OR AREAS TO BE INCLUDED WITHIN SUCH A DISTRICT; TO
 5 PROVIDE THAT THE BOUNDARIES OF A LEISURE AND RECREATION DISTRICT
 6 MAY EXTEND FROM WITHIN THE MUNICIPALITY INTO THE UNINCORPORATED
 7 AREA OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED IF THE
 8 COUNTY CONSENTS TO THE EXTENSION AND HAS VOTED IN FAVOR OF COMING
 9 OUT FROM UNDER THE DRY LAW; TO AMEND SECTION 67-1-51, MISSISSIPPI
 10 CODE OF 1972, TO PROVIDE THAT HOLDERS OF CERTAIN PERMITS ISSUED
 11 UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW MAY SELL
 12 ALCOHOLIC BEVERAGES OR WINE TO A PATRON OF THE PERMIT HOLDER IN
 13 THE MANNER AUTHORIZED IN THE PERMIT AND THAT THE PATRON MAY REMOVE
 14 AN OPEN CONTAINER OF THE ALCOHOLIC BEVERAGE OR WINE FROM THE
 15 LICENSED PREMISES AND MAY POSSESS AND CONSUME THE ALCOHOLIC
 16 BEVERAGE OR WINE OUTSIDE OF THE LICENSED PREMISES IF THE LICENSED
 17 PREMISES IS LOCATED WITHIN A LEISURE AND RECREATION DISTRICT
 18 CREATED UNDER THIS ACT AND THE PATRON REMAINS WITHIN THE
 19 BOUNDARIES OF THE LEISURE AND RECREATION DISTRICT WHILE IN
 20 POSSESSION OF THE ALCOHOLIC BEVERAGE OR WINE; AND FOR RELATED
 21 PURPOSES.

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

23 **SECTION 1.** (1) For the purposes of this section, the
 24 following words shall have the following meanings ascribed in this
 25 section, unless the context clearly otherwise requires:

26 (a) "Municipality" means any incorporated city, town or
 27 village in the State of Mississippi.



28 (b) "Leisure and recreation district" means an area
29 officially designated by ordinance or resolution of the governing
30 authorities of a municipality as a leisure and recreation
31 district.

32 (2) (a) The governing authorities of a municipality, by
33 ordinance, may establish one (1) or more leisure and recreation
34 districts within the corporate boundaries of the municipality and
35 designate the geographic area or areas to be included within a
36 district. The governing authorities of a municipality, by
37 ordinance, may modify the boundaries of a leisure and recreation
38 district. In addition, the boundaries of a leisure and recreation
39 district may extend from within the municipality into the
40 unincorporated area of the county in which the municipality is
41 located if the county consents to the extension and has voted in
42 favor of coming out from under the dry law.

43 (b) The designation or modification of the geographic
44 area or areas as a leisure and recreation district shall include a
45 detailed description of the area or areas within the district,
46 boundaries of the district and a georeferenced map of the
47 district. In addition to any other matters addressed in an
48 ordinance or resolution establishing or modifying a leisure and
49 recreation district, a municipality must describe the manner in
50 which the municipality will provide for adequate law enforcement
51 and other public safety measures and services within the district.
52 Following the establishment and/or modification of a leisure and



53 recreation district, the municipality shall provide the Department
54 of Revenue with (i) a copy of any ordinance relating to the
55 establishment or modification of the district, (ii) verification
56 from the municipal police department and/or applicable sheriff's
57 department indicating how such department will provide adequate
58 law enforcement and other public safety measures and services
59 within the district and (iii) a list of persons or other entities
60 that hold permits issued under Section 67-1-51 (c), (e), (f), (g),
61 (l), (n) or (o) and are located and/or doing business under such
62 permits in the district at the time the district is established.

63 **SECTION 2.** Section 67-1-51, Mississippi Code of 1972, is
64 amended as follows:

65 67-1-51. (1) Permits which may be issued by the department
66 shall be as follows:

67 (a) **Manufacturer's permit.** A manufacturer's permit
68 shall permit the manufacture, importation in bulk, bottling and
69 storage of alcoholic liquor and its distribution and sale to
70 manufacturers holding permits under this chapter in this state and
71 to persons outside the state who are authorized by law to purchase
72 the same, and to sell exclusively to the department.

73 Manufacturer's permits shall be of the following classes:

74 Class 1. Distiller's and/or rectifier's permit, which shall
75 authorize the holder thereof to operate a distillery for the
76 production of distilled spirits by distillation or redistillation
77 and/or to operate a rectifying plant for the purifying, refining,



78 mixing, blending, flavoring or reducing in proof of distilled
79 spirits and alcohol.

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

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

86 (b) **Package retailer's permit.** Except as otherwise
87 provided in this paragraph and Section 67-1-52, a package
88 retailer's permit shall authorize the holder thereof to operate a
89 store exclusively for the sale at retail in original sealed and
90 unopened packages of alcoholic beverages, including native wines,
91 not to be consumed on the premises where sold. Alcoholic
92 beverages shall not be sold by any retailer in any package or
93 container containing less than fifty (50) milliliters by liquid
94 measure. A package retailer's permit, with prior approval from
95 the department, shall authorize the holder thereof to sample new
96 product furnished by a manufacturer's representative or his
97 employees at the permitted place of business so long as the
98 sampling otherwise complies with this chapter and applicable
99 department regulations. Such samples may not be provided to
100 customers at the permitted place of business. In addition to the
101 sale at retail of packages of alcoholic beverages, the holder of a
102 package retailer's permit is authorized to sell at retail



103 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
104 other beverages commonly used to mix with alcoholic beverages.
105 Nonalcoholic beverages sold by the holder of a package retailer's
106 permit shall not be consumed on the premises where sold.

107 (c) **On-premises retailer's permit.** Except as otherwise
108 provided in subsection (5) of this section, an on-premises
109 retailer's permit shall authorize the sale of alcoholic beverages,
110 including native wines, for consumption on the licensed premises
111 only; however, a patron of the permit holder may remove one (1)
112 bottle of wine from the licensed premises if: (i) the patron
113 consumed a portion of the bottle of wine in the course of
114 consuming a meal purchased on the licensed premises; (ii) the
115 permit holder securely reseals the bottle; (iii) the bottle is
116 placed in a bag that is secured in a manner so that it will be
117 visibly apparent if the bag is opened; and (iv) a dated receipt
118 for the wine and the meal is available. Such a permit shall be
119 issued only to qualified hotels, restaurants and clubs, and to
120 common carriers with adequate facilities for serving passengers.
121 In resort areas, whether inside or outside of a municipality, the
122 department, in its discretion, may issue on-premises retailer's
123 permits to such establishments as it deems proper. An on-premises
124 retailer's permit when issued to a common carrier shall authorize
125 the sale and serving of alcoholic beverages aboard any licensed
126 vehicle while moving through any county of the state; however, the



127 sale of such alcoholic beverages shall not be permitted while such
128 vehicle is stopped in a county that has not legalized such sales.

129 (d) **Solicitor's permit.** A solicitor's permit shall
130 authorize the holder thereof to act as salesman for a manufacturer
131 or wholesaler holding a proper permit, to solicit on behalf of his
132 employer orders for alcoholic beverages, and to otherwise promote
133 his employer's products in a legitimate manner. Such a permit
134 shall authorize the representation of and employment by one (1)
135 principal only. However, the permittee may also, in the
136 discretion of the department, be issued additional permits to
137 represent other principals. No such permittee shall buy or sell
138 alcoholic beverages for his own account, and no such beverage
139 shall be brought into this state in pursuance of the exercise of
140 such permit otherwise than through a permit issued to a wholesaler
141 or manufacturer in the state.

142 (e) **Native wine retailer's permit.** Except as otherwise
143 provided in subsection (5) of this section, a native wine
144 retailer's permit shall be issued only to a holder of a Class 3
145 manufacturer's permit, and shall authorize the holder thereof to
146 make retail sales of native wines to consumers for on-premises
147 consumption or to consumers in originally sealed and unopened
148 containers at an establishment located on the premises of or in
149 the immediate vicinity of a native winery.

150 (f) **Temporary retailer's permit.** Except as otherwise
151 provided in subsection (5) of this section, a temporary retailer's



152 permit shall permit the purchase and resale of alcoholic
153 beverages, including native wines, during legal hours on the
154 premises described in the temporary permit only.

155 Temporary retailer's permits shall be of the following
156 classes:

157 Class 1. A temporary one-day permit may be issued to bona
158 fide nonprofit civic or charitable organizations authorizing the
159 sale of alcoholic beverages, including native wine, for
160 consumption on the premises described in the temporary permit
161 only. Class 1 permits may be issued only to applicants
162 demonstrating to the department, by a statement signed under
163 penalty of perjury submitted ten (10) days prior to the proposed
164 date or such other time as the department may determine, that they
165 meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
166 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
167 Class 1 permittees shall obtain all alcoholic beverages from
168 package retailers located in the county in which the temporary
169 permit is issued. Alcoholic beverages remaining in stock upon
170 expiration of the temporary permit may be returned by the
171 permittee to the package retailer for a refund of the purchase
172 price upon consent of the package retailer or may be kept by the
173 permittee exclusively for personal use and consumption, subject to
174 all laws pertaining to the illegal sale and possession of
175 alcoholic beverages. The department, following review of the



176 statement provided by the applicant and the requirements of the
177 applicable statutes and regulations, may issue the permit.

178 Class 2. A temporary permit, not to exceed seventy (70)
179 days, may be issued to prospective permittees seeking to transfer
180 a permit authorized in paragraph (c) of this subsection. A Class
181 2 permit may be issued only to applicants demonstrating to the
182 department, by a statement signed under the penalty of perjury,
183 that they meet the qualifications of Sections 67-1-5(1), (m), (n),
184 (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and
185 67-1-59. The department, following a preliminary review of the
186 statement provided by the applicant and the requirements of the
187 applicable statutes and regulations, may issue the permit.

188 Class 2 temporary permittees must purchase their alcoholic
189 beverages directly from the department or, with approval of the
190 department, purchase the remaining stock of the previous
191 permittee. If the proposed applicant of a Class 1 or Class 2
192 temporary permit falsifies information contained in the
193 application or statement, the applicant shall never again be
194 eligible for a retail alcohol beverage permit and shall be subject
195 to prosecution for perjury.

196 Class 3. A temporary one-day permit may be issued to a
197 retail establishment authorizing the complimentary distribution of
198 wine, including native wine, to patrons of the retail
199 establishment at an open house or promotional event, for
200 consumption only on the premises described in the temporary



201 permit. A Class 3 permit may be issued only to an applicant
202 demonstrating to the department, by a statement signed under
203 penalty of perjury submitted ten (10) days before the proposed
204 date or such other time as the department may determine, that it
205 meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2)
206 and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59.
207 A Class 3 permit holder shall obtain all alcoholic beverages from
208 the holder(s) of a package retailer's permit located in the county
209 in which the temporary permit is issued. Wine remaining in stock
210 upon expiration of the temporary permit may be returned by the
211 Class 3 temporary permit holder to the package retailer for a
212 refund of the purchase price, with consent of the package
213 retailer, or may be kept by the Class 3 temporary permit holder
214 exclusively for personal use and consumption, subject to all laws
215 pertaining to the illegal sale and possession of alcoholic
216 beverages. The department, following review of the statement
217 provided by the applicant and the requirements of the applicable
218 statutes and regulations, may issue the permit. No retailer may
219 receive more than twelve (12) Class 3 temporary permits in a
220 calendar year. A Class 3 temporary permit shall not be issued to
221 a retail establishment that either holds a merchant permit issued
222 under paragraph (1) of this subsection, or holds a permit issued
223 under Chapter 3, Title 67, Mississippi Code of 1972, authorizing
224 the holder to engage in the business of a retailer of light wine
225 or beer.



226 (g) **Caterer's permit.** A caterer's permit shall permit
227 the purchase of alcoholic beverages by a person engaging in
228 business as a caterer and the resale of alcoholic beverages by
229 such person in conjunction with such catering business. No person
230 shall qualify as a caterer unless forty percent (40%) or more of
231 the revenue derived from such catering business shall be from the
232 serving of prepared food and not from the sale of alcoholic
233 beverages and unless such person has obtained a permit for such
234 business from the Department of Health. A caterer's permit shall
235 not authorize the sale of alcoholic beverages on the premises of
236 the person engaging in business as a caterer; however, the holder
237 of an on-premises retailer's permit may hold a caterer's permit.
238 When the holder of an on-premises retailer's permit or an
239 affiliated entity of the holder also holds a caterer's permit, the
240 caterer's permit shall not authorize the service of alcoholic
241 beverages on a consistent, recurring basis at a separate, fixed
242 location owned or operated by the caterer, on-premises retailer or
243 affiliated entity and an on-premises retailer's permit shall be
244 required for the separate location. All sales of alcoholic
245 beverages by holders of a caterer's permit shall be made at the
246 location being catered by the caterer, and, except as otherwise
247 provided in subsection (5) of this section, such sales may be made
248 only for consumption at the catered location. The location being
249 catered may be anywhere within a county or judicial district that
250 has voted to come out from under the dry laws or in which the



251 sale, distribution and possession of alcoholic beverages is
252 otherwise authorized by law. Such sales shall be made pursuant to
253 any other conditions and restrictions which apply to sales made by
254 on-premises retail permittees. The holder of a caterer's permit
255 or his employees shall remain at the catered location as long as
256 alcoholic beverages are being sold pursuant to the permit issued
257 under this paragraph (g), and the permittee shall have at the
258 location the identification card issued by the Alcoholic Beverage
259 Control Division of the department. No unsold alcoholic beverages
260 may be left at the catered location by the permittee upon the
261 conclusion of his business at that location. Appropriate law
262 enforcement officers and Alcoholic Beverage Control Division
263 personnel may enter a catered location on private property in
264 order to enforce laws governing the sale or serving of alcoholic
265 beverages.

266 (h) **Research permit.** A research permit shall authorize
267 the holder thereof to operate a research facility for the
268 professional research of alcoholic beverages. Such permit shall
269 authorize the holder of the permit to import and purchase limited
270 amounts of alcoholic beverages from the department or from
271 importers, wineries and distillers of alcoholic beverages for
272 professional research.

273 (i) **Alcohol processing permit.** An alcohol processing
274 permit shall authorize the holder thereof to purchase, transport
275 and possess alcoholic beverages for the exclusive use in cooking,



276 processing or manufacturing products which contain alcoholic
277 beverages as an integral ingredient. An alcohol processing permit
278 shall not authorize the sale of alcoholic beverages on the
279 premises of the person engaging in the business of cooking,
280 processing or manufacturing products which contain alcoholic
281 beverages. The amounts of alcoholic beverages allowed under an
282 alcohol processing permit shall be set by the department.

283 (j) **Hospitality cart permit.** A hospitality cart permit
284 shall authorize the sale of alcoholic beverages from a mobile cart
285 on a golf course that is the holder of an on-premises retailer's
286 permit. The alcoholic beverages sold from the cart must be
287 consumed within the boundaries of the golf course.

288 (k) **Special service permit.** A special service permit
289 shall authorize the holder to sell commercially sealed alcoholic
290 beverages to the operator of a commercial or private aircraft for
291 en route consumption only by passengers. A special service permit
292 shall be issued only to a fixed-base operator who contracts with
293 an airport facility to provide fueling and other associated
294 services to commercial and private aircraft.

295 (l) **Merchant permit.** Except as otherwise provided in
296 subsection (5) of this section, a merchant permit shall be issued
297 only to the owner of a spa facility, an art studio or gallery, or
298 a cooking school, and shall authorize the holder to serve
299 complimentary by the glass wine only, including native wine, at
300 the holder's spa facility, art studio or gallery, or cooking



301 school. A merchant permit holder shall obtain all wine from the
302 holder of a package retailer's permit.

303 (m) **Temporary wine charitable auction permit.** A
304 temporary permit, not to exceed five (5) days, may be issued to a
305 qualifying charitable nonprofit organization that is exempt from
306 taxation under Section 501(c) (3) or (4) of the Internal Revenue
307 Code of 1986. The permit shall authorize the holder to sell wine
308 for the limited purpose of raising funds for the organization
309 during a live or silent auction that is conducted by the
310 organization and that meets the following requirements: (i) the
311 auction is conducted in an area of the state where the sale of
312 wine is authorized; (ii) if the auction is conducted on the
313 premises of an on-premises retailer's permit holder, then the wine
314 to be auctioned must be stored separately from the wine sold,
315 stored or served on the premises, must be removed from the
316 premises immediately following the auction, and may not be
317 consumed on the premises; (iii) the permit holder may not conduct
318 more than two (2) auctions during a calendar year; (iv) the permit
319 holder may not pay a commission or promotional fee to any person
320 to arrange or conduct the auction.

321 (n) **Event venue retailer's permit.** An event venue
322 retailer's permit shall authorize the holder thereof to purchase
323 and resell alcoholic beverages, including native wines, for
324 consumption on the premises during legal hours during events held
325 on the licensed premises if food is being served at the event by a



326 caterer who is not affiliated with or related to the permittee.
327 The caterer must serve at least three (3) entrees. The permit may
328 only be issued for venues that can accommodate two hundred (200)
329 persons or more. The number of persons a venue may accommodate
330 shall be determined by the local fire department and such
331 determination shall be provided in writing and submitted along
332 with all other documents required to be provided for an
333 on-premises retailer's permit. The permittee must derive the
334 majority of its revenue from event-related fees, including, but
335 not limited to, admission fees or ticket sales for live
336 entertainment in the building. "Event-related fees" do not
337 include alcohol, beer or light wine sales or any fee which may be
338 construed to cover the cost of alcohol, beer or light wine. This
339 determination shall be made on a per event basis. An event may
340 not last longer than two (2) consecutive days per week.

341 (o) **Temporary theatre permit.** A temporary theatre
342 permit, not to exceed five (5) days, may be issued to a charitable
343 nonprofit organization that is exempt from taxation under Section
344 501(c)(3) or (4) of the Internal Revenue Code and owns or operates
345 a theatre facility that features plays and other theatrical
346 performances and productions. Except as otherwise provided in
347 subsection (5) of this section, the permit shall authorize the
348 holder to sell alcoholic beverages, including native wines, to
349 patrons of the theatre during performances and productions at the
350 theatre facility for consumption during such performances and



351 productions on the premises of the facility described in the
352 permit. A temporary theatre permit holder shall obtain all
353 alcoholic beverages from package retailers located in the county
354 in which the permit is issued. Alcoholic beverages remaining in
355 stock upon expiration of the temporary theatre permit may be
356 returned by the permittee to the package retailer for a refund of
357 the purchase price upon consent of the package retailer or may be
358 kept by the permittee exclusively for personal use and
359 consumption, subject to all laws pertaining to the illegal sale
360 and possession of alcoholic beverages.

361 (p) **Charter ship operator's permit.** Subject to the
362 provisions of this paragraph (p), a charter ship operator's permit
363 shall authorize the holder thereof and its employees to serve,
364 monitor, store and otherwise control the serving and availability
365 of alcoholic beverages to customers of the permit holder during
366 private charters under contract provided by the permit holder. A
367 charter ship operator's permit shall authorize such action by the
368 permit holder and its employees only as to alcoholic beverages
369 brought onto the permit holder's ship by customers of the permit
370 holder as part of such a private charter. All such alcoholic
371 beverages must be removed from the charter ship at the conclusion
372 of each private charter. A charter ship operator's permit shall
373 not authorize the permit holder to sell, charge for or otherwise
374 supply alcoholic beverages to customers, except as authorized in
375 this paragraph (p). For the purposes of this paragraph (p),



376 "charter ship operator" means a common carrier that (i) is
377 certified to carry at least one hundred fifty (150) passengers
378 and/or provide overnight accommodations for at least fifty (50)
379 passengers, (ii) operates only in the waters within the State of
380 Mississippi, which lie adjacent to the State of Mississippi south
381 of the three (3) most southern counties in the State of
382 Mississippi, and (iii) provides charters under contract for tours
383 and trips in such waters.

384 (2) Except as otherwise provided in subsection (4) of this
385 section, retail permittees may hold more than one (1) retail
386 permit, at the discretion of the department.

387 (3) Except as otherwise provided in this subsection, no
388 authority shall be granted to any person to manufacture, sell or
389 store for sale any intoxicating liquor as specified in this
390 chapter within four hundred (400) feet of any church, school,
391 kindergarten or funeral home. However, within an area zoned
392 commercial or business, such minimum distance shall be not less
393 than one hundred (100) feet.

394 A church or funeral home may waive the distance restrictions
395 imposed in this subsection in favor of allowing issuance by the
396 department of a permit, pursuant to subsection (1) of this
397 section, to authorize activity relating to the manufacturing, sale
398 or storage of alcoholic beverages which would otherwise be
399 prohibited under the minimum distance criterion. Such waiver
400 shall be in written form from the owner, the governing body, or



401 the appropriate officer of the church or funeral home having the
402 authority to execute such a waiver, and the waiver shall be filed
403 with and verified by the department before becoming effective.

404 The distance restrictions imposed in this subsection shall
405 not apply to the sale or storage of alcoholic beverages at a bed
406 and breakfast inn listed in the National Register of Historic
407 Places or to the sale or storage of alcoholic beverages in a
408 historic district that is listed in the National Register of
409 Historic Places, is a qualified resort area and is located in a
410 municipality having a population greater than one hundred thousand
411 (100,000) according to the latest federal decennial census.

412 (4) No person, either individually or as a member of a firm,
413 partnership, limited liability company or association, or as a
414 stockholder, officer or director in a corporation, shall own or
415 control any interest in more than one (1) package retailer's
416 permit, nor shall such person's spouse, if living in the same
417 household of such person, any relative of such person, if living
418 in the same household of such person, or any other person living
419 in the same household with such person own any interest in any
420 other package retailer's permit.

421 (5) (a) In addition to any other authority granted under
422 this section, the holder of a permit issued under subsection
423 (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may
424 sell or otherwise provide alcoholic beverages and/or wine to a
425 patron of the permit holder in the manner authorized in the permit



426 and the patron may remove an open glass, cup or other container of
427 the alcoholic beverage and/or wine from the licensed premises and
428 may possess and consume the alcoholic beverage or wine outside of
429 the licensed premises if: (i) the licensed premises is located
430 within a leisure and recreation district created under Section 1
431 of this act and (ii) the patron remains within the boundaries of
432 the leisure and recreation district while in possession of the
433 alcoholic beverage or wine.

434 (b) Nothing in this subsection shall be construed to allow a
435 person to bring any alcoholic beverages into a permitted premises
436 except to the extent otherwise authorized by this chapter.

437 **SECTION 3.** Section 1 of this act shall be codified as a new
438 section in Chapter 1, Title 67, Mississippi Code of 1972.

439 **SECTION 4.** This act shall take effect and be in force from
440 and after July 1, 2016.

