

HOUSE BILL NO. 801

AN ACT TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, RELATING TO THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW, TO PROVIDE THAT A PACKAGE RETAILER'S PERMIT SHALL AUTHORIZE THE HOLDER TO SAMPLE NEW PRODUCT FURNISHED BY A MANUFACTURER'S REPRESENTATIVE OR HIS EMPLOYEES AT THE PERMITTED PLACE OF BUSINESS; TO PROVIDE THAT SUCH SAMPLES MAY NOT BE PROVIDED TO CUSTOMERS AT THE PERMITTED PLACE OF BUSINESS; TO PROVIDE THAT A PACKAGE RETAILER'S PERMIT SHALL AUTHORIZE TASTING OR SAMPLING EVENTS TO BE CONDUCTED AT THE PACKAGE RETAILER'S PERMITTED PLACE OF BUSINESS DURING WHICH TASTES OR SAMPLES OF ALCOHOLIC BEVERAGES MAY BE OFFERED OR SERVED TO CONSUMERS AT NO COST; TO LIMIT THE DURATION OF TASTING OR SAMPLING EVENTS AND THE AMOUNT OF ALCOHOLIC BEVERAGE THAT MAY BE SERVED TO ANY ONE PERSON AT SUCH EVENTS; TO PROVIDE THAT THE PRODUCT TASTED OR SAMPLED AT SUCH EVENTS MUST BE PRODUCT THAT IS IN THE INVENTORY OF THE PACKAGE RETAILER CONDUCTING THE EVENT; TO PROVIDE THAT A PACKAGE RETAILER MAY CONDUCT NOT MORE THAN TWELVE EVENTS DURING A CALENDAR YEAR; TO AMEND SECTION 67-1-75, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

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

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

Manufacturer's permits shall be of the following classes:

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

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

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

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph and Section 2 of this act, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. Alcoholic

beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. A package retailer's permit, with prior approval from the department, shall authorize the holder thereof to sample new product furnished by a manufacturer's representative or his employees at the permitted place of business so long as the sampling otherwise complies with this chapter and applicable department regulations. Such samples may not be provided to customers at the permitted place of business. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** An on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt

for the wine and the meal is available. Such a permit shall issue only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales.

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

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

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

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

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary

permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

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

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be

eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may

receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (1) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be

required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale, distribution and possession of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited

amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

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

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

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

(1) **Merchant permit.** A merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

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

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

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

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

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of

Historic Places, is a qualified resort area and is located in a municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

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

SECTION 2. A package retailer's permit issued under Section 67-1-51(b) shall, with prior written approval from the department, authorize tasting or sampling events to be conducted at the package retailer's permitted place of business during which tastes or samples of alcoholic beverages may be offered or served to consumers at no cost. During a tasting or sampling event authorized by this section, limited amounts of alcoholic beverages may be consumed on the permitted place of business. A tasting or sampling event shall not authorize the sale of alcoholic beverages for consumption on the permitted place of business, but shall only authorize the limited consumption of alcoholic beverages at the permitted place of business for the sole purpose of tasting or sampling various alcoholic beverages. A tasting or sampling event

shall be conducted completely within an area that is cordoned off by barriers clearly separating the event from the point of sale of any alcoholic beverage and may last not longer than four (4) hours. No one under twenty-one (21) years of age may participate in a tasting or sampling event and a sign indicating this shall be placed in a clearly visible location at the entrance to the area where the tasting or sampling event will be conducted. No food may be served or sold at a tasting or sampling event. Each sample of wine served at the event shall not exceed one and one-fourth (1-1/4) ounces and no more than a cumulative total of five (5) ounces of wine may be dispensed to any one (1) person during a tasting or sampling event. Each sample of a distilled spirit served at the event shall not exceed one-fourth (1/4) of an ounce and no more than a cumulative total of one (1) ounce of distilled spirits may be dispensed to any one (1) person during a tasting or sampling event. All product tasted or sampled at the event must be provided by the package retailer from its inventory. Such product cannot be sample product provided by a manufacturer and must have been purchased from the department warehouse or from a licensed wholesaler. Only employees of the package retailer may serve any product for tasting or sampling at the event. Tickets for a tasting or sampling event shall not be sold in the permitted place of business or any other location. The holder of a tasting or sampling event shall keep an accurate accounting of the various alcoholic beverages and amounts consumed at each tasting or

sampling event and must provide a copy of the accounting to the department within ten (10) days of completion of the event. The holder of a package retailer's permit may conduct not more than one (1) event in a three-month period.

This section shall be repealed from and after July 1, 2015.

SECTION 3. Section 67-1-75, Mississippi Code of 1972, is amended as follows:

67-1-75. If the holder of a package retailer's permit, or any employee thereof:

(a) Shall sell, offer for sale or permit to be sold in, on or about the premises covered by such permit any alcoholic beverages except in the original sealed and unopened packages; or

(b) Shall permit the drinking or consumption of any alcoholic beverages in, on or about the premises covered by such permit except as may be otherwise authorized by this chapter; or

(c) Shall sell, offer for sale or permit the sale in, on or about the premises of alcoholic beverages in any package or container containing less than fifty (50) milliliters by liquid measure; then such person or employee shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

In addition, in the case of the commission of any of such offenses by the holder of a permit, it shall be the duty of the commission

forthwith to revoke the permit held by such person and conviction of the criminal offense shall not be a condition precedent to such revocation.

SECTION 4. This act shall take effect and be in force from and after July 1, 2014.

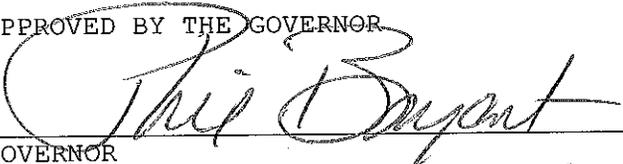
PASSED BY THE HOUSE OF REPRESENTATIVES
April 1, 2014


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 1, 2014


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

4/23/14

4:10pm