Title 35 Mississippi State Tax Commission

Part II Alcoholic Beverage Control

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Subpart 01 Enforcement

Chapter 01 Violations

100 Any person, firm, association, corporation, hotel, restaurant, or club defined in Local Option Alcoholic Beverage Control Law that shall violate any of the provisions of the said law, or knowingly permit the violation of the said law upon its premises shall not be eligible to obtain any permit provided for in Section 67-1-51, Mississippi Code of 1972, Re-complied, for a period of twelve (12) months after the date of violation.

101 Unless otherwise provided by law, the Commission may revoke or suspend permits and/or ABC identification cards upon conviction before the Commission of the permittee of one (1) or more clerks, agents or employees of a permittee of the laws, rules and regulations governing the sale of alcoholic beverages. In taking such action the Commission shall consider prior offenses committed by the permittee and/or its employees within a period of two (2) years from the date of the most recent offense.

102 In addition to suspension or revocation of permits and/or identification cards, the Commission may impose fines not to exceed one thousand dollars ($1,000.00) upon conviction of any person by the Commission for the violation of any ABC rule or regulation. The Commission shall not impose said fines until the person is given an opportunity for a hearing. Failure of a permittee to pay fines within a time designated by the Commission will result in revocation of his/her ABC Identification card. Failure of a manufacturer representative to pay fines will result in the suspension of the representative's products from sale in the State. Any person who fails to pay a fine imposed by the Commission shall be prohibited from working in a permitted establishment.

103 The Director of the Alcoholic Beverage Control Division is hereby empowered, authorized, and directed to carry out fully the provisions of this Regulations and Section 67-1-17, Mississippi Code of 1972, Recompiled.

104 (Reserved)

Chapter 02 Advertising

100 No person, firm or corporation shall originate advertisements in "dry" counties of this State, pursuant to Miss. Code Ann. §§ 67-1-1, 67-1-13, 67-1-15 and 67-5-5, when such advertisement deals with an alcoholic beverage, including but not limited to advertisements by newspapers, radio, television, circular, dodger, word-by-mouth, signs, billboards, displays or any other advertising media.

101 All alcoholic beverage advertising about which a person is in doubt should be submitted to Alcoholic Beverage Control Division of the Mississippi State Tax Commission for PRIOR approval.

102 (Reserved)

35.II.01.02 updated effective January 11, 2007.

Chapter 03 Permitted Premises Where Alcoholic Beverages Are Sold

100 The minimum distances provided in Section 67-1-51(3), Mississippi Code of 1972, as amended, shall be measured from the nearest point of the building housing the church, school, kindergarten or funeral home to the nearest point of the premises which consist of the floor planned area to be licensed by the Commission. This distance shall be measured in a straight line, such as air line distance, rather than the usual route of pedestrian travel.

101 No person shall sell or offer for sale any alcoholic beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, provided, however, within an area in which both the premises and the church, school, kindergarten, or funeral home are zoned commercial or industrial such minimum distance shall not be less than one hundred (100) feet.

102 In instances in which a church, school, kindergarten or funeral home is located in a residential district and the place of sale of any alcoholic beverages shall be located in an adjacent commercial or industrial district, such minimum distance between the place of sale of the aforesaid alcoholic beverages and the church, school, kindergarten or funeral home shall be four hundred (400) feet.

103 Effective June 1, 1996, any location at which any alcoholic beverages are lawfully being presently offered for sale which does not conform to the above mentioned provisions shall be permitted to continue such sales, until such time as the business is abandoned for a six month period.

104 A church or funeral home may waive the distance restrictions in favor of allowing issuance by the commission of a permit authorizing the sale of alcoholic beverages that would otherwise be prohibited under the minimum distance requirements. 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 commission before becoming effective.

105 A door must be located at or near the front of every place of business selling packaged alcoholic beverages. The back door to such place of business or storage area must be kept locked at all times except when merchandise is being received. In cases of orders or ordinances of a governing authority forbidding the locking of a back door because of a fire hazard, the Commission will make exceptions to this rule.

106 Surplus stock must be stored in the same building where the retail business is being conducted, but nothing shall prohibit the owner or manager of such a place of business from erecting a partition between the retail and the storage area thereof. In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may use a common storage facility located and identified on the floor planned area for all alcoholic beverages purchased.

107 A permittee utilizing a common storage facility for a business establishment with multiple permits must submit a floor plan of the common storage facility that designates where alcoholic beverages purchased under each permit will be stored. Co-mingling of the permitted inventories by the multiple permittee shall result in the suspension or revocation of the permits.

108 All sales of alcoholic beverages shall be made inside the permitted premises.

109 Under very limited circumstances, a permittee may request a waiver from the State Tax Commission to authorize the storage of surplus alcoholic beverages in a location that is separate from the building where the retail business is being conducted. Any off-site storage exception or waiver request must be approved by the Commission and spread upon the Commission's minutes in order to be ratified. A request for a waiver must meet the following requirements:

1. The off-site storage location must meet all distance requirements of Mississippi Code Annotated Section 67-1-51 in the same manner as the retail premises as well as all local ordinances pertaining to zoning. Further, the proximity of the off-site storage location to the permittee's retail premises shall be considered by the Commission.
2. All entrances and any other access to the storage facility must remain secure and locked at all times, except when merchandise is being received or transferred to the retail location. The Commission may request a floor plan of the off-site location as well as a copy of the permittee's deed or lease to ensure that permittee can accomplish restricted access to the off-site location.
3. The exclusive use of the off-premises location must be storage of surplus alcoholic beverage inventory and items authorized for sale by Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 23. There shall be no other use of the off-site storage location.
4. A permittee utilizing an off-site storage location for a business establishment with multiple permits must submit a floor plan of the facility that designates where alcoholic beverages purchased under each permit will be stored at the off-premises location. Co-mingling of the permitted inventories by a multiple permittee shall result in the suspension or revocation of the permits.
5. The permittee must demonstrate a specific, articulable business necessity for the waiver request as the same relates to the shelf/storage space and inventory cycles of the permittee's retail premises.

110 In addition to the above, the Commission may request any other documentation from the permittee deemed relevant for consideration of a waiver request to ensure compliance

with all ABC laws and regulations. On a case-by-case basis, any waiver granted pursuant to this regulation may be subject to special conditions imposed by the Commission. The Commission may revoke a waiver for an off-site storage location at any time. The permittee will be notified of the revocation in writing.

111 (Reserved)

Chapter 04 Hours and Days during Which Alcoholic Beverages May Be Sold by Hotels, Restaurants, Clubs, Package Stores and Caterers

100 On-premise permittees or clubs or caterers may make sales of alcoholic beverages at the permitted location between the hours of 10:00 a.m. and midnight, except that no sales or deliveries of alcoholic beverages shall be made to any person on Sundays. It is further provided that on New Year's Eve, on- premises permittees and clubs may be allowed to remain open until 1:00 a.m., January 1st. In the event that New Year's Eve falls on Sunday, on-premises permittees and clubs may make sales of alcoholic beverages at the permitted location between the hours of 1:00 p.m. and 1:00 a.m. Provided, however, the governing body of any municipality may petition the State Tax Commission to permit sales by on-premises permittees or clubs located within the municipality at other times, and also the hours of sale may, with the approval of the State Tax Commission, be either shortened or extended. In the event that a municipality or county would prefer not to recognize the extension of hours on New Year's Eve when the holiday falls on Sunday, the municipality or county shall notify the Alcoholic Beverage Control Enforcement Section, in writing, no later than September 1 of that year. The Board of Supervisors of any county may file such a petition with the State Tax Commission for on-premises permittees or clubs located outside a municipality. All such petitions must be accompanied by a certified copy of the order of the municipal governing authority or the Board of Supervisors requesting such permission.

101 Resort areas are exempt from the above provisions requiring the sale of alcoholic beverages to be between the hours of 10:00 a.m. and midnight. However, the governing body of any municipality may petition the State Tax Commission to designate the hours of sale of alcoholic beverages for a resort area on-premises permittees or clubs located within the municipality. The Board of Supervisors of any county may also file such a petition with the State Tax Commission for resort area on-premises permittees or clubs located outside a municipality. Upon receipt of the above mentioned petitions, or upon its own motion, the Commission shall consider the same and set whatever hours of sale it deems appropriate for any particular resort area. All such petitions must be accompanied by a certified copy of the resolution of the municipal governing authority or the Board of Supervisors requesting such permission.

102 It shall be unlawful for any holder of a package retailer's permit (or any employee or agent thereof) to sell, give away, deliver or barter any alcoholic beverages before 10:00 a.m. and after 10:00 p.m., or on any Sunday, or on Christmas Day.

103 (Reserved)

Chapter 05 Purchase and Sale of Distilled Alcoholic Beverages by On-Premises Permittees

100 All sales of alcoholic beverages by on-premise permitted places of business shall be made by the drink, EXCEPT bottles of distilled alcoholic beverages which may be sold as follows:

1. At such businesses being operated in connection with hotels and motels, which may sell such beverages in bottles for delivery to and consumption in rooms of registered guests.
2. On-premises retailer clubs may sell exclusively to its members such beverages in bottles for delivery and consumption only upon the club's permitted premises. Each bottle must clearly reflect thereon the club member's name who purchases the bottle.
3. Wine and champagne which may be sold by any on-premises permittee by the bottle for consumption exclusively in the permitted place of business.

101 All sales of alcoholic beverages by on-premises permittees shall be for consumption in the licensed premises only. The licensed premises shall consist of the area designated in the floor plan. In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may submit an all inclusive floor plan of the entire enclosed area. The Commission shall have the discretion to allow the consumption of alcoholic beverages throughout the permitted area regardless of where on the premises the beverages are purchased as long as the Commission is satisfied that the permittee is the actual owner of the entire premises and that there is sufficient controlled access to the premises.

102 No on-premises permittee shall sell or allow consumption of alcoholic beverages inside the premises where the business is conducted, such as the lounge, bar or restaurant except during hours when alcoholic beverages may be legally sold, as set forth in Title 35, Part II, Subpart 01 Chapter 4 of the Mississippi Administrative Code. However, alcoholic beverages may, with prior written approval from the Commission, be consumed during other hours at a permittee sponsored Christmas party for his employees; or on Sunday after 1:00 p.m., in a privately leased banquet room of a permittee. An application, in writing, stating the date, beginning and ending time of the event, the number of employees (or persons, when applicable) anticipated to attend, and a copy of the lease agreement (when applicable) must be submitted to the Commission by the permittee at least ten (10) days prior to said Christmas party or lease agreement. Christmas parties are restricted to permittee, employees and their companions.

103 No on-premises permittee shall allow alcoholic beverages to be brown-bagged by a consumer/customer on the premises where the business is conducted. However, this restriction does not apply to privately leased banquet rooms. If a private banquet room is leased to an individual and said individual desires to bring his own alcoholic beverages (brown-bagging), the permittee is strictly prohibited from furnishing, selling and/or storing alcoholic beverages on the leased area. On Sundays, when the Commission specifically authorizes consumption as herein above set out, a consumer may ONLY brown-bag alcoholic beverages previously obtained from a package retailer in the State.

All alcoholic beverages remaining in a leased banquet room after the expiration of the lease shall be destroyed by the permittee.

104 On-premises permittees operating a hotel or motel that elect to place mini bars in the rooms of registered guests are held responsible for keeping the mini bars locked with the issuance of keys restricted to guests who present a valid identification card verifying that he or she is over 21 years of age.

105 No permittee may refill any alcoholic beverage container with an alcoholic beverage.

106 When a patron requests a specific brand of alcoholic beverage, no permittee may dispense an alternate brand of alcoholic beverage without first notifying the customer that the requested brand is not available.

107 (Reserved)

Chapter 06 Retailer's Records

100 Retailers must keep records. It will be the duty of every retailer of alcoholic beverages to keep and preserve for a period of three (3) years adequate records of the gross income, gross receipts, or gross proceeds of sales of the business, including itemized invoices for all merchandise purchased (and whether procured from local or other retail or wholesale outlets, all itemized purchase invoices and tickets shall bear the date of purchase, name of the seller and purchaser), all bank statements and cancelled checks, and all other books or accounts as may be necessary to determine the financial position of the business. Cash register tapes may not be used in lieu of itemized invoices for record purposes. In addition to the above records, restaurants shall keep gross sales in three (3) separate accounts; food, beer and alcoholic beverages. Said records shall be adequate in substance to conform with generally accepted accounting practices and all of such records shall be written in the English language. All records shall be open for examination at any time by the Director, any member of the State Tax Commission, or their duly authorized agent.

101 The records provided for in this regulation and applicable Federal regulations shall be kept at the retailer's place of business or at the office of his attorney or accountant within this state. Failure to keep and allow examination of such records shall subject the permittee to immediate forfeiture of license.

102 (Reserved)

Chapter 07 Prohibited Conduct and Activities

100 No person holding an alcoholic beverage retailer's permit, and no agent, associate, employee, representative, entertainer or servant of any such permittee shall do, or permit, any of the following activities or events on or about the licensed premises:

1. Fraternize by sitting at tables with customers while on duty; or to employ persons to solicit patrons for drinks AND to accept drinks from patrons AND receive therefore a commission or any other re-numeration in any other way.
2. Permit any prostitute to frequent the licensed premises, or to solicit patrons for prostitution.
3. Permit any person to remain on the premises while such person is unclothed or in such attire, costume or clothing to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, the pubic hair area, anus, cleft of the buttocks, vulva, penis or genitals. Furthermore, no female permittee or any female agent, associate, employee, representative, servant, or entertainer of said permittee shall wear such attire, costume or clothing on the licensed premises which reveals any part of the female breast below the top of the areola, and such attire, costume, or clothing cannot be extraordinarily designed or displayed to specifically accentuate the breasts.
4. Encourage or permit any person, for entertainment purposes, to touch, caress or fondle the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
5. Permit any person to wear or use any device or covering, exposed to view, which simulates the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
6. Permit live entertainment or conduct which is lewd, immoral or offensive to public decency, including:
    a. Any live act or performance of, or which simulates:
        i. Sexual intercourse, masturbation, sodomy, bestiality, or oral copulation, flagellation or any sexual act prohibited by law.
        ii. The touching, caressing or fondling of the breast, buttocks, anus, penis or genitals.
        iii The displaying of the pubic hair, the pubic hair area, anus, vulva, penis, genitals or any portion of the female breast below the top of the areola.
        iv. The use of any artificial device or object to depict any of the prohibited activities described above.
    b. Any live act or performance which appeals primarily to sexually oriented, lustful, prurient, or erotic interest including, but not limited to, the following: erotic dancers; male or female strippers; topless dancers (male or female); dancers where clothes are removed to reveal portions of the body and constituting a strip act or simulation thereof; contests or exhibitions such as wet t-shirt, biggest breast, biggest bulge, body beautiful, best leg, hairiest chest, best tan, best hiney, mud wrestling, tight jeans, and similar contests or exhibitions. No string bikinis, spaghetti straps or thong attire are permitted with any swimwear, costume, or lingerie clothing.
7. The showing of films, still pictures, electronic reproduction, or other visual reproductions depicting:
    a. Acts, or simulated acts, or sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts which are prohibited by law.

b. Any person being touched, caressed or fondled on the breast, buttocks, anus, penis or pubic area.

c. Scenes wherein a person displays the breasts, vulva, anus, penis or genitals or pubic area.

d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

8. Allow disorderly or boisterous conduct or the use of profane or vulgar language; provided this regulation shall not apply to remarks made by entertainers/entertainment groups in the course of their performance unless otherwise prohibited by the laws of the State of Mississippi, and as long as:

a. The performance takes place in a portion of the licensed premises which has a sign conspicuously posted at each entrance, advising the public choosing to enter the portion of the premises of the nature of the performance and that certain words or phrases used may be considered offensive or insulting by some persons, and

b. That any use of profane language, addressed in paragraph (8) above, is not so amplified as to be clearly and distinctly audible in other areas of the licensed premises or beyond the premises.

9. On-premises permitted places of business may charge an admission fee, a cover or minimum charge, or an entertainment fee but shall not require the purchase of alcoholic beverages in order for a customer to enter or remain in such permitted place.

101 The permittee shall be responsible at all times for any and all of the aforesaid actions which may take place in any permitted establishment whether he or his manager is present at such times or not. The Commission may revoke or suspend the license of any permittee for the violation of any of the provisions of this regulation. Any questions regarding the permissibility of activities or conduct governed by this regulation should be submitted, in writing, to the Director of the Alcoholic Beverage Control Division.

102 It is the intent of the Commission that each and every part of this regulation is independent from the other; that each could stand alone; and to this end the provisions of this regulation, and parts thereof, are severable.

103 (Reserved)

Chapter 08 Employment of Persons under 21 Prohibited

100 No holder of a package retailer's permit shall be in his employ in the sale of alcoholic beverages or in the handling thereof (except to unload in sealed cartons, boxes, or similar shipping packages, which packages shall remain sealed at all times they are being handled) any person under the age of twenty-one (21) years old.

101 Notwithstanding the foregoing, a person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or

delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if in the scope of his employment by the holder of an on-premises retailer's permit. This exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity as a bartender. This regulation is not intended to prohibit a person under twenty-one (21) from working as an entertainer.

102 (Reserved)

Chapter 09 Cooking Wines

100 All wines containing more than five percent (5%) alcohol by weight are considered an alcoholic beverage and shall be possessed, transported, sold, purchased, etc., in accordance with and under the provisions of the Local Option Alcoholic Beverage Control Law, except salted wines which contain not in excess of twenty-one percent (21%) alcohol by volume and not less than 1.5 grams of salt per 100 cubic centimeters. Such wines are not considered capable of being consumed as a beverage by a human being and, therefore, are exempt from the provisions of the Local Option Alcoholic Beverage Control Law.

101 (Reserved)

Chapter 10 Restriction on Interest of Permittees and Division Employees

100 No officer, agent or employee of the Alcoholic Beverage Control Division of the State Tax Commission nor any permittee shall at any time hold stock in any business engaged in the manufacture, distillation, importation or rectifying of alcoholic beverages, nor shall such person, other than the holder of a permit, own any interest in any place of business licensed to sell alcoholic beverages.

101 (Reserved)

Chapter 11 Manufacturer's Representative

100 A manufacturer's representative, who shall be the manufacturer's control state manager or an executive officer of the company, shall be recognized by the Alcoholic Beverage Control Division of the State Tax Commission only after proper application for registration has been made by the manufacturer and approved. In either case, the individual designated as a manufacturer's representative and approved to do business with the Alcoholic Beverage Control Division must be a full time employee of the manufacturer.

101 The manufacturer's registered representative may authorize persons to work for the manufacturer within this state; each of whom must be registered with the Alcoholic Beverage Control Division. As employees are added or replaced it will be the responsibility of the manufacturer to register or have deleted the names of such

employees with the Alcoholic Beverage Control Division of the State Tax Commission. Such employees may represent more than one manufacturer.

102 The manufacturer's registered representative shall be held responsible for all activities, including the personal conduct, of all employees of the manufacturer in connection with the representation of their business in this state. Every employee or representative of a manufacturer shall observe state laws and the rules and regulations of the Alcoholic Beverage Control Division of the State Tax Commission.

103 The registration of a manufacturer's representative and his employees, or any number thereof, may be suspended and the manufacturer's products may be de-listed by the Director of the Alcoholic Beverage Control Division and/or a civil penalty not to exceed $1,000.00 may be imposed at the direction of the Commission if it shall appear to the satisfaction of the Commission that the law or the policies and/or regulations of the Alcoholic Beverage Control Division of the State Tax Commission have been violated by the manufacturer, the manufacturer's registered representative, or any employee of the manufacturer working in the state.

104 This regulation does not affect the manufacturer's employment of legal counsel regularly engaged in the practice of law in matters concerning the application and interpretation of law. Further, this regulation does not apply to manufacturer's representatives in instances where ABC solicits special orders only for its product inventory.

105 A distiller's, distributor's, rectifiers, or importer's representative or employee shall be recognized under the same conditions established in this regulation for a manufacturer's representative.

106 (Reserved)

Chapter 12 Gifts, Gratuities, and Inducements

100 Pursuant to Miss. Code Ann. Section 67-1-77(2) no holder of a manufacturer's or wholesaler's permit, or anyone connected with the business of such holder, or for any other distiller, wine manufacturer, brewer, rectifier, blender, or bottler shall make an offer of gifts, gratuities, or inducements of any kind whatsoever to any retailer in Mississippi when such gifts or gratuities are in any way connected with or associated with any phase of the purchase, sale, marketing, distribution or control of alcoholic beverages within the State of Mississippi, except as authorized herein.

101 The holder of a manufacturer's or wholesaler's permit, or any distiller, wine manufacturer, brewer, rectifier, blender, bottler, or anyone connected with such businesses, may however furnish, subject to the same requirements and limitations of the Federal Tied House Regulations and Interpretations thereof and not otherwise contrary to state law, the following: wine list; glassware; retailer equipment; inside signs; supplies; services; educational seminars; product displays; and advertising specialties to

Mississippi alcoholic beverage retailers, not to exceed nominal value, as provided hereafter:

101.01 Educational seminars, trade shows or tasting events for licensed retailers sponsored by any employee or registered agent of any alcoholic beverage manufacturer, distiller or wholesaler, are permissible at licensed on-premise establishments, establishments holding one day temporary permits, or at conventions sponsored by and on behalf of alcoholic beverage retailer associations. All alcoholic beverages consumed at such seminars, trade shows, or tastings, other than approved conventions, MUST be furnished exclusively by the on-premise permittee on his licensed premises. Consumption of alcoholic beverages at ALL seminars, trade shows and tasting events is limited to the hours of consumption set forth in Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 4.

101.02 Any educational seminar, trade show or tasting event given for the general public (where alcoholic beverages are sampled), regardless of who sponsors the program, is limited to licensed on-premise establishments, or an establishment holding a one-day temporary permit, with the permittee exclusively furnishing the alcoholic beverages.

101.03 Any person sponsoring an alcoholic beverage seminar or trade show occurring at a location in a "wet" county NOT possessing any on premise alcoholic beverage license or a one-day temporary permit shall not distribute for tasting purposes or any other purpose.

102 Alcoholic beverage samples, coupons, rebates or other inducements, which require proof of purchase, to anyone are strictly prohibited. Nothing in this regulation is intended to prohibit the type of activity permitted by Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 13; and Subpart 3, Chapter 9.

103 Nominal value, as used in this section, shall be based on a per brand basis and shall mean the industry's purchase price or a reasonable wholesale value not to exceed the dollar limitations placed on said or like items pursuant to the Federal Tied House Regulations and adjustments made by the Director of the Bureau of Alcohol, Tobacco and Firearms.

104 All records shall be open for examination at any time by the State Tax Commission or its duly authorized agents.

105 (Reserved)

Chapter 13 Samples of Alcoholic Beverages

100 A manufacturer's representative and his employees, as described in Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 11, may furnish one sample of a new product to any ABC licensed retailer. This sample may be given to the permittee or to a manager on behalf of the permittee. Distribution of samples may occur only at the permitted business. Samples are to be used for the promotion of that specific product and may not be used as a gift or an inducement to purchase other products.

101 A sample of an alcoholic beverage is defined as an alcoholic beverage not previously purchased by that permittee. The size limit per item of samples of alcoholic beverages allowed is to be determined by federal guidelines and/or regulations.

102 Each bottle of product distributed as a sample must have clearly stamped or printed upon the label the word "SAMPLE".

103 Products used for samples must be delivered to the Liquor Distribution Center for distribution to the manufacturer's representative. The cases containing sample alcoholic beverages must be marked or stamped on at least two (2) sides of the case in bold letters with the word "SAMPLE" by the manufacturer prior to shipment. A separate Bill of Lading must accompany each case of sample alcoholic beverages and the word "SAMPLE" must be clearly marked on said Bill of Lading. Samples must be removed from the LDC within 10 working days of receipt thereof. Failure of the manufacturer's representative to remove samples from the LDC upon the expiration of ten (10) days will result in destruction of said products. The ABC will not be responsible for any damages occurring while said products are stored in the warehouse.

103.1 The manufacturer's representative is responsible for paying all freight costs, excise taxes, and any other costs assessed on sample products upon receipt of that product from the ABC. Distribution of any product on which taxes are due is strictly prohibited.

104 The manufacturer's representative and his employees shall, on or before the fifteenth day of each month, file form ABCD2BR (6/92), with the ABC Enforcement Division detailing the distribution of sample products for the preceding month. This report must also include the storage location and amount, by brand, of all sample alcoholic beverages held by the manufacturer's representative or his employees pending distribution.

105 The willful failure to file such reports, the falsification of such reports, or the distribution of product samples inconsistent with the law or with this regulation may result in the suspension of the registration of a manufacturer's representative and his employees. In addition, the Commission may de-list the manufacturer's products.

106 A manufacturer's representative, or his employee, may transport sample alcoholic beverages provided that such person has obtained authorization for transport from the Alcoholic Beverage Control Division. Such products must be stored outside, the passenger compartment of a motor vehicle or in an enclosed container.

107 Package retailers may not consume samples of alcoholic beverages on their licensed premises.

107.1. On premises retailers, their managers and their employees, may consume sample alcoholic beverages only during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling.

107.2 An on-premises permittee may assemble other permittees, along with their licensed managers employees, for purposes of sampling alcoholic beverages. Consumption of sample alcoholic beverages must take place during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling.

108 No alcoholic beverage products distributed as samples may be sold, offered for sale, or distributed to any person by any permittee, manager, or employee of the permittee.

109 (Reserved)

Chapter 14 Distribution

100 No one except the holder of a permit or his authorized agent shall be allowed to purchase or request the shipment of alcoholic beverages by the Alcoholic Beverage Control Division of the State Tax Commission.

101 (Reserved)

Chapter 15 Manufacturer (Rectifier)

100 No manufacturer's (rectifier's) permit shall be issued until satisfactory evidence is furnished the Commission that the applicant holds all permits or authorization required by the Federal Government.

101 Duplicate copies of monthly returns, transcripts, notices or other data, as required by the Federal Government, must be furnished the Alcoholic Beverage Control Division of the State Tax Commission not later than the 10th of each month. In addition thereto, such manufacturers (rectifiers) shall furnish the Alcoholic Beverage Control Division of the State Tax Commission duplicate copies of the bills of lading covering all shipments of the products of the permittee.

102 All laws and rules and regulations of the Federal Government, or any subsequent modification thereof, applicable to the manufacture (rectification) of distilled spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of the Alcoholic Beverage Control Division of the State Tax Commission.

103 (Reserved)

Chapter 16 Qualifications for Agents

100 No person shall be employed as an agent of the Alcoholic Beverage Control Division unless he/she is of sound moral character and has reached the age of 21 years and meets the qualifications as set forth by the Mississippi State Personnel Board. The applicant must have a Bachelor's degree from an accredited four-year college or university in

criminal justice, law enforcement, criminology, police science, police administration or a directly related field. Alternatively, the applicant must have a Bachelor's degree from an accredited four-year college or university and possession of a current State of Mississippi Law Enforcement Professional Certificate. Any agent of the Alcoholic Beverage Control Division is subject to assignment to any location within the State of Mississippi consistent with the mission needs of the agency for ABC enforcement.

101 (Reserved)

Chapter 17 Mutilation of Shipping Labels

100 No permittee or employee thereof shall mutilate, destroy or remove shipping labels or other information stamped or otherwise affixed to any case of alcoholic beverages delivered to said permittee from the Alcoholic Beverage Control Division warehouse not shall any permittee or employee thereof permit the purchaser of alcoholic beverages to remove such labels or information while on the permittee's premises.

101 (Reserved)

Chapter 18 Regulations Setting Forth the Requirements of Automatic and Electronic Liquor and Wine Dispensing Systems

100 The installation of automatic and electronic dispensing systems by on-premises permittees is authorized, provided that the following requirements are complied with:

1. Such equipment must avoid an in-series hook-up which would permit the contents to flow from bottle to bottle before reaching the dispensing spigot or nozzle. Multiple bottles of alcoholic beverages utilized to supply a single line or tube in an in-series hook-up must be of identical brand and content.
2. Such equipment must dispense from the original containers, as received from the Mississippi Alcoholic Beverage Control Division. Once the contents flow from the original containers, as received from the Mississippi Alcoholic Beverage Control Division, into any such equipment, said contents shall not flow from such equipment into any other containers other than those used by said establishment for sale by the drink.
3. The permittee shall maintain records that reflect the brands and quantities of alcoholic beverages used in such systems.
4. The premises, including any places of storage, where the alcoholic beverages are dispensed, shall be subject to inspection by the Mississippi Alcoholic Beverage Control Division or peace officers during all business hours for the purpose of inspection or for examination of any books and records required to be kept by on-premises permittees. Where any part of such installation is in a locked room or locked cabinet, permittees shall have a key to said room or cabinet available on the premises, and, upon request by any authorized representative of the Mississippi Alcoholic Beverage Control Division or peace officers, such permittees or any employee thereof shall open said storage rooms, cabinets, or other places for such inspection during regular business hours.

5. The filing of an application for the use or alteration of such systems is required. No system shall be placed in service until approval is received from the Alcoholic Beverage Control Division.
6. The use or alteration of such equipment without prior approval from the Alcoholic Beverage Control Division shall constitute good and sufficient cause for the suspension or revocation of the permit.

101 (Reserved)

Chapter 19 Permittees, Employees and/or Agents Shall Not Be Visibly Intoxicated or under the Influence of any Alcoholic Beverage, Beer or Light Wine on Permitted Premises; No Consumption for Package Retailers on Permitted Premises; Limited Consumption for On-Premise Permittees under Specific Circumstances

100 Except as authorized under Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 13, no package retailer permittee, not employee or agent thereof, will be permitted on the premises of the permitted place of business, as set forth in Section 67-1-51 of the Mississippi Code of 1972, while consuming or while under the influence of an alcoholic beverage, beer, or light wine.

101 No on-premise retailer permittee, nor employee or agent thereof, will be permitted on the premises of the permitted place of business, as set forth in Section 67-1-51 of the Mississippi Code of 1972, while intoxicated or visibly under the influence of an alcoholic beverage, beer or light wine. In addition, no on-premises permittee, nor employee or agent thereof who is on duty, will be permitted on the premises of the permitted place of business, as set forth in Section 67-1-51 of the Mississippi Code of 1972, while consuming an alcoholic beverage, beer or light wine. On duty for purposes of this regulation shall mean visibly working or the absence of another approved manager who is visibly working and exercising control over the operation of the permitted place of business. Intoxicated for purposes of this regulation shall mean above the legal limit which is established by the Implied Consent Law found in Miss. Code Ann. Section 63-11-1 et seq.

102 The Commission may revoke or suspend the license of any package or on-premise retailer permittee for the violation of the provisions of this Regulation. The failure of any permittee, or employee or agent thereof, to submit to an intoxilyzer test after being charged with being intoxicated, and having been requested to do so by agents of the Alcoholic Beverage Control Division or any other duly authorized law enforcement official of the State of Mississippi, will be deemed prima facie proof that the permittee, or his agent or employee, was intoxicated.

103 (Reserved)

Chapter 20 Sales of Alcoholic Beverages by Approved Package Retailers to Other Retailers

100 Pursuant to all Federal requirements and Miss. Code Ann. §67-1-41, permittees may purchase alcoholic beverages from a package retailer holding applicable Federal wholesale permits and who have been approved by the Commission to make wholesale sales of alcoholic beverages. In order to buy at wholesale from a package retailer, an on premise retailer must present a permit identification card, which will be issued by the Alcoholic Beverage Control.

101 Any qualified package retailer may apply with the Commission for approval to engage in wholesale transactions with permittees. The permittee must meet all federal permit requirements and must maintain all state permit qualifications as set forth in Miss. Code Ann. 67-1-57 (1972) in order to qualify for approval by the Commission. The Commission may suspend or revoke a package retailer's authorization to make wholesale sales for any violation of the Local Option Alcoholic Beverage Control Laws, Rules and Regulations. Upon approval by the Commission to make wholesale sales, the package retailer will be required to purchase an imprinting device as prescribed by the ABC which will be used in making wholesale sales to on premise permittees.

102 Each package retailer authorized to sell at wholesale shall use invoices provided by the ABC for sales to permittees and shall maintain copies of said invoices for a period of three years. Each sales invoice must reflect all requested information at the time of delivery to the purchaser.

103 Purchases made from authorized package retailers must be COMPLETED between the hours of 10:00 a.m. and10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. No permittee may obtain his initial purchases of alcoholic beverages from an authorized package retailer.

104 An authorized wholesale package retailer may deliver product to permittees between the hours of 10:00 a.m. and 10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. Product must be delivered in a concealed cargo area of a vehicle or sufficiently covered so as to not be visible by the public.

105 Upon completion of the wholesale transaction or upon delivery of product to the purchaser, the seller must provide a copy of the sales invoice to the purchaser, and the invoice MUST remain with said *seller or* purchaser while transporting the purchased beverages to the purchaser's permitted location. The purchaser's copy of the sales invoice shall be maintained by the purchaser at his place of business for a period of 3 years and, upon request, must be immediately provided to the ABC or other law enforcement agency requesting same.

106 A package retailer authorized to make said wholesale sales shall forward a copy of the on premise sales invoices for a given month to the Alcoholic Beverage Control Division. This information must be postmarked or hand delivered by the 20th day of the month following the sale. Sales invoices reflecting wholesale sales made to other package retailers shall not be forwarded to the Alcoholic Beverage Control Division. The seller shall maintain a copy of all sales transactions (on premises and package retailers) for a

period of 3 years. Upon request of the ABC or other law enforcement agency, the retailer shall immediately produce said sales invoice to the requesting agency.

107 All purchases made by on premise permittees under this regulation shall be included in the calculation of the additional privilege fee provided by Miss. Code Ann. §27-71-5. For purposes of calculating the additional privilege fee, the price shall not be less than the price of the alcoholic beverages as listed in the ABC's price book in effect at the time of the sale.

108 (Reserved)

Chapter 21 Governmental Affairs Representatives

100 A holder of a manufacturer's or wholesaler's permit may contract for the service of a representative in the area of governmental affairs on a part-time basis with a holder of an on premises retailer's permit.

101 Notice must be provided to the Alcoholic Beverage Control Division by providing the ABC with a copy of the employment contract entered into by the manufacturer or wholesaler and the representative. The contract shall include a description of services to be rendered by the governmental affairs representative, and shall include the salary to be paid as well as the duration of the employment.

102 The representative shall register with the Office of the Secretary of State, and shall provide the ABC with proof of such registration by providing certified copies of all information submitted to the Secretary of State.

103 One (1) year from the date of entry into the contract for employment as a governmental affairs representative, the representative shall submit an annual report to the ABC Division, on forms provided by the ABC.

104 (Reserved)

Chapter 22 Exchanges, Credits and Refunds

100 Permittees holding package retailer's permits may allow a customer to return no more than five (5) bottles of package liquor for exchange, credit or refund as long as the liquor was, in fact, purchased from the permittee's business, and as long as a receipt reflecting that the liquor was sold to the patron by the permittee is presented by the patron.

101 In the event that a patron should desire to return in excess of five (5) bottles of liquor for refund, credit or exchange, the permittee shall notify the Enforcement Section of the Alcoholic Beverage Control Division for its approval of said transaction.

102 Any refunds, credits or exchanges made by a permittee for liquor not purchased from him will result in a charge being filed against the permittee for violation of Miss. Code Ann. § 67-1-41 (1972).

103 (Reserved)

Chapter 23 Sale of Soft Drinks, Ice, Juices, Mixers, and Other Items by Package Retailers

100 Package retailers may sell wine glasses, corkscrews, ice, soft drinks, juices, mixers, and other non-alcoholic beverages commonly used to mix with alcoholic beverages, for consumption off the premises.

101 Sales of ice must be limited to commercially bagged ice in original sealed and unopened bags containing five (5) or more pounds.

102 Soft drinks for purposes of this regulation are defined by Mississippi Code Ann. § 27-65-3 (1) (1972). Soft drinks include original commercially sealed and unopened containers; therefore, fountain drinks are not to be included.

103 Juices shall include fresh, frozen, or concentrated non-alcoholic beverages extracted from fruits and vegetables of all types packaged in original commercially sealed and unopened containers.

104 Mixers are non-alcoholic beverages in a liquid form commonly used to dilute or enhance an alcoholic drink or cocktail, packaged in original commercially sealed and unopened containers. Examples include, but not limited to, water, tonic water, ginger ale, club soda, seltzer, syrups, non-dairy creams, Worcestershire sauces, hot sauces, "Mr. & Mrs. T’s" mixers, "Pat O'Brien's" mixers, "Bacardi Mixers", etc. All dry mixes are prohibited and shall not be sold by package retailers.

105 Wine glasses shall include glassware that is manufactured and marketed primarily for wine consumption as well as plastic stemware commonly used in drinking wine. Other types of plastic containers, styrofoam, and paper cups of all other types are not included and may not be sold or used for consumption on the premises. In addition, industry supplied consumer items may not be offered for sale by package retailers.

106 Sale of any items listed above shall in no way be used to promote, persuade, or influence the sale of alcoholic beverages. Therefore, the permittee can not give as a gift or reduce the price of these items when the same is conditioned on the purchase of an alcoholic beverage.

107 Any questions regarding the permissibility of products intended for sale by package retailers governed by this regulation should be submitted, in writing, to the Director of the Alcoholic Beverage Control Division.

108 (Reserved)

Chapter 24 Check Cashing

100 The holder of a package retailer's permit is authorized to cash checks for their face value without a charging fee, or to cash checks from time to time as an incident to a retail sale or independently of a retail sale for a fee, not exceeding three percent (3%) of the face amount of the check or Ten Dollars ($10.00), whichever is greater, in accordance with Miss. Code Ann. § 75-67-501 (c). A violation of Miss. Code Ann. § 75-67-501 et seq. by a package retailer shall also constitute a violation of this regulation.

101 (Reserved)

Subpart 2 Licensing

Chapter 01 Bonds

100 The amount of bond required of the holder of any retailer's permit under Section 27-71-21, Mississippi Code of 1972, Recompiled, shall be Five Thousand Dollars ($5,000.00). This bond shall be in such form as required by the Alcoholic Beverage Control Division.

101 New, revised, or different bonds may be required by the Alcoholic Beverage Control Division at any time for any carrier, manufacturer and/or distributor, and any holder of a retailer's bond.

102 If a retailer receives notice that his bond is to be cancelled during the permit year, the permittee must immediately notify the ABC in writing that the bond is being cancelled and must provide copies of any documentation received by the permittee from the bonding company. Furthermore, the permittee shall obtain another bond or deposit the equivalent amount of the bond required in cash or securities with the State Treasurer pursuant to Miss. Code Ann. § 27-71-21 (1972), prior to the cancellation date of the original bond.

103 Failure to submit a valid bond bay said cancellation date will result in automatic suspension of sales until a valid bond is received by the ABC. In addition, the Commission may take punitive action against the permittee for failure to timely submit a bond.

104 (Reserved)

Chapter 02 Permit Limit

100 No person, either individually or as a member of a firm, partnership or association, or as a stockholder, officer or director in a corporation, shall own or control any interest whatsoever in more than one package retailer's permit, nor shall he act as a guarantor for or loan money to or receive any remuneration from more than one package retailer's

permit, and further, neither the spouse, any relative, nor any other person living in the same household as any person owning any interest in a package retailer's permit as set forth herein shall own any interest whatsoever in any other package retailer's permit.

101 No person, either individually or as member of a firm, partnership or association, or as a stockholder, officer or director in a corporation, shall be permitted to own an interest in more than one package store while owning any interest whatsoever in an on-premises retailer's permit. This prohibition shall also apply to the spouse, relatives, or other persons living in the same household as the person who owns interest in an on-premise retailer's permit. This regulation is promulgated to specifically allow multiple ownership of on- premises retailer's permits and to provide that person's holding on-premises retailer's permits may simultaneously own an interest in a package retailer's permit.

102 However, this regulation does not authorize a person to purchase or otherwise transfer alcoholic beverages from one permitted place of business to another. Any violation of the provisions of Section 67-1-41, 67-1-43 and 27-75-5, Mississippi Code of 1972, will be grounds for revocation of the permit or permits issued to the violator.

103 This regulation shall not be construed to deny renewal of any permit which may have been issued prior to the effective date of this regulation, nor shall this regulation be construed to prohibit rendering professional services for more than one package retailer.

104 (Reserved)

Chapter 03 Filing Fee

100 The $25.00 filing fee is to recompense the Alcoholic Beverage Control Division for investigating the qualifications of an applicant for a permit, and is forfeited whether the Commission grants the permit applied for or not.

101 (Reserved)

Chapter 04 Permittee Must Maintain Qualifications and Pay Taxes

100 The failure of a permittee to maintain the qualifications necessary for the issuance of a permit under Section 67-1-57, Mississippi Code of 1972, Recompiled, including the failure to pay any taxes due the State, may result in the revocation or suspension of a retailer's alcoholic beverage permit.

101 (Reserved)

Chapter 05 Permit Transfer

100 No permit or any beneficial interest in same shall be transferred by any permittee to any other person or any other place except with the written consent of the Commission, upon application forms furnished by the Commission for such purposes.

101 Notice of the intended transfer of such location or beneficial interest must be published for two consecutive issues in a newspaper having general circulation in the city or town in which the transfer applicant's place of business is located. In instances where the business is not located within a city or town, publication should occur in a newspaper of general circulation in the county where the business is located. Proof of publication must be filed with the application to transfer such interest.

102 This regulation shall not be construed to require publication of a mere change in trade name or the officers of a corporation where there is no change in the ownership. However, any such contemplated changes must be submitted to the Commission for approval prior to making the same.

103 An applicant for transfer of ownership of a permit for which there exists an exemption from distance requirements as provided for in Miss. Code Ann. § 67-1-51 (3) (1972) must submit an updated waiver from any funeral home or church.

104 All original applicants for permits and/or proposed recipients of beneficial interest in such permits must be not less than 21 years of age, have not been convicted of a felony in any state or federal court, and that the applicant for a package retailer's permit, if an individual, is a resident of the State of Mississippi. If the applicant is a partnership, each member of the partnership must be a resident of the state. If the applicant is a corporation, the designated manager of the corporation must be a resident of the state.

105 (Reserved)

Chapter 06 Death or Disability of a Permittee

100 In case of death or physical or mental disability of any permittee, the estate or guardianship of the permittee shall be allowed to operate the permitted business for a period not exceeding sixty (60) days after such disability. During the aforesaid 60-day period, any member of the permittee's immediate family may make application to the Commission in the usual manner that the unexpired portion of the permit of the decedent be assigned to him, but the payment of an additional permit fee shall not be required.

101 If such application is approved by the Commission, the applicant shall be granted the right, without the payment of an additional permit fee, to operate the permitted place of business for the unexpired portion of the time of the original permit.

102 It shall also be permissible for the Executor of the Estate or guardian of the disabled permittee to sell the permittee's alcoholic beverage inventory to another permitted place of business, with the written approval of the Director of the Alcoholic Beverage Control Division, following the procedure outlined in Title 35 of the Mississippi Administrative Code, Part II, Subpart 3, Chapter 1.

103 If the application is denied, the Alcoholic Beverage Control Division of the State Tax Commission shall pick up and refund to the estate of the heirs at law of the decedent or

the disabled person the value of all unopened alcoholic beverages in the place of business at such time, at the then current wholesale price, less a charge of five dollars ($5.00) per case for handling and transportation back to the warehouse in Gluckstadt, Mississippi, where the items returned will be placed in ABC inventory.

104 However, no credit will be given for special orders, novelty items contained in dual packaged products, ceramic decanters, holiday packages or delisted items. Such merchandise shall not be redeemed by the State of Mississippi under any circumstances.

105 (Reserved)

Chapter 07 Temporary and Qualified Resort Areas

100 Temporary Resort Area:

1. The Commission is authorized to approve a certain area or locality outside the limits of an incorporated municipality as a temporary resort area if the particular location is in the process of being developed as a qualified resort area. Approval of this type of resort designation is contingent upon the applicant's submitting the following:
    a. A resolution from the Board of Supervisors of the county where such proposed area is located. The resolution must specifically state that the Board is of the opinion that the area in question is in the process of being developed as a resort area. In addition, the resolution must set forth the basis for the Board's conclusion.
    b. A map clearly marked to indicate the specific area under consideration.
    c. A list of steps taken or to be taken in developing the area as a qualified resort area.
    d. Endorsements by civic clubs in the area under consideration.
    e. Assurance from the Sheriff of the area that he will enforce the Local Option Alcoholic Beverage Control Laws of the State of Mississippi, and the rules and regulations of the Alcoholic Beverage Control Division in such area.
    f. Proof of publication of legal notice and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a temporary resort area is being filed, the contents of the application, and a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.
2. The temporary resort area designation is for a term of one year. Prior to the expiration of the year period, the applicant must establish and prove that the proposed area meets all of the statutory qualifications for a qualified resort area.

101 Qualified Resort Area:

1. A qualified resort area must be clearly established, understood and agreed upon by the resort area community. A community may be considered for a qualified resort area classification by the State Tax Commission by submitting a proper application.

2. The application must be submitted by the President of the Board of Supervisors or the Mayor or Mayors of the municipality or municipalities affected. In the event the President of the Board of Supervisors or the Mayor refuses to submit such application, the same may be submitted by not less than 100 adult citizens of the community to be affected, and shall in each instance include the following items:
   a. A map clearly marked to indicate the specific area under consideration.
   b. Reasons why the particular area should be classified as a qualified resort area.
   c. Endorsements by civic clubs in the area under consideration.
   d. Assurance from the Sheriff or Sheriffs of the area that he will enforce the Local Option Alcoholic Beverage Control Laws of the State of Mississippi, and the rules and regulations of the Alcoholic Beverage Control Division in such area. If the area is located within a municipality, such assurance shall also be given by the Chief of Police of such municipality or municipalities.
   e. A certified copy of the order or orders as entered on the minute books of the governing body.
   f. Proof of publication of legal notices and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a qualified resort area is being filed, the contents of the application, and a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.
3. Adjacent or affected areas may either join in or file objections to the application with the Commission.

102 (Reserved)

Chapter 08 Common Carriers Reporting

100 Common carriers, in lieu of purchasing alcoholic beverages for resale from the Alcoholic Beverage Control Division, must file a Common Carrier Reporting Form (ABCD-4001). These common carrier reporting forms and the total amount due must be filed by the 20th of the month for the preceding month. The report will be audited as required by the Alcoholic Beverage Control Division.

101 A common carrier must maintain detailed records that reflect where alcoholic beverages were purchased, the purchase price, the date of the purchase and the taxes paid if the alcoholic beverages were purchased from a source (i.e. wholesaler or ship chandler) other than the Commission. The records and inventory of alcoholic beverages shall be open to inspection by the Director of the B C or any duly authorized agent at any time.

102 If common carriers purchase the alcoholic beverages they sell while traveling through the State of Mississippi from the Alcoholic Beverage Control Division, Common Carrier Reporting Form ABCD-4001 does not have to be filed.

103 Alcoholic beverages can only be served and/or consumed while inside the permitted common carrier. While stopped in a dry county, common carriers are prohibited from serving alcoholic beverages or allowing the consumption of alcoholic beverages.

104 In the event that a common carrier has multiple permits for a business establishment, the common carrier may store alcoholic beverages in a common storage facility as described and regulated in Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 3, if and only if the alcoholic beverages were purchased directly from the Commission.

105 (Reserved)

Chapter 09 Qualifications of Employees and Managers

100 The permittee shall be responsible, at all times, for acts of his manager(s) and/or employee(s) which are in violation of the Alcoholic Beverage Control Laws, Rules and Regulations, and which take place at the permitted establishment, whether the permittee is present at such times or not.

101 It is further provided that the permittee shall not knowingly employ any individual who has either been convicted of a felony within the past three years immediately preceding an employment decision or who has been convicted and incarcerated for any crime within a period of one year immediately preceding an employment decision. Furthermore, a permittee shall not employ any person under the age of eighteen (18) to wait on tables, take orders for, or deliver orders of alcoholic beverages and may not employ any person under the age of twenty-one (21) to tend bar or act in the capacity of bartender.

102 Permittees are required to make an inquiry into whether an employee meets the above criteria and maintain records of this information.

103 Prior to a proposed manager assuming managerial responsibility, the permittee must obtain approval of the manager from the Alcoholic Beverage Control Division. To obtain approval of the proposed manager, the permittee must file the following forms:

1. Application for change in manager or assistant manager's name on alcoholic beverage license;
2. Personal Record Form, ABCD-1001;
3. Two fingerprint cards;
4. The applicable processing fee, in certified funds, for submission of fingerprints to the FBI.

104 In addition, each manager applicant must possess all qualifications required of a permittee. Manager identification cards may be suspended or revoked for valid cause.

105 The Commission may impose fines, or may suspend or revoke the permit(s) of any permittee in violation of this regulation.

106 (Reserved)

Chapter 10 Management Agreement

100 The permittee in all cases must carry on the business for himself and have direct control over its entire operation.

101 No management agreement for a permitted place of business shall be effective until the Commission has approved the same.

102 The management agreement must provide that the permittee will be absolutely responsible for any and all violations of the Mississippi Alcoholic Beverage Control Laws, Rules and Regulations, occurring on or about the licensed premises.

103 Where the law authorizes that an on-premises retailer's permit be issued to a restaurant or hotel, the operation of the lounge located on their premises shall be in conjunction with the operation of the restaurant. Therefore, the operation of the restaurant and lounge shall be considered one and the same and must be under the direction of one manager.

104 (Reserved)

Chapter 11 Application Requirement:

100 The following information will be required by the alcoholic beverage control division of the Mississippi State Tax Commission prior to, and at any time after, issuance of a retailer permit:

1. A properly completed application for Retailer's Permit (Form 1000, or 1010, or 1008).
2. Proof of Publication Affidavit on Legal Notice as set forth by Section 67-2-53(2) to include two (2) tear sheets from the newspaper in which said Legal Notice was published.
3. Proof of compliance with the Federal statutes and regulations applicable to the permit being applied for which will include a copy of the receipt for purchase of a Federal Use Stamp or a copy of the check in payment thereof together with a copy of the completed Federal Form 11 (Application for Federal Use Stamp).
4. A copy of the Applicant's deed or executed lease agreement on the premises where the business is to operate. If the permittee receives notice that the lease is to be cancelled, or if the permittee transfers the deed, during the permit year, the permittee must immediately notify the Alcoholic Beverage Control Division in writing. The permittee shall obtain an executed renewal lease prior to the expiration date of the existing lease if the lease is to expire during the permit year. If the permittee previously submitted a deed or multi-year lease on the permitted premises, prior to renewal, of the permittee must submit an affidavit attesting that there are no changes in said deed or lease. Failure to submit a valid renewal lease, deed or affidavit will result in the automatic suspension of sales until a valid lease is received by the Alcoholic Beverage Control Division. Further, the Commission may revoke the

permit for failure to timely submit an executed renewal lease, deed or affidavit. A valid copy of any deed or lease may be required at any time after issuance of the original permit.

5. A copy of the floor plan of the building where the prospective permittee proposes to operate the business under the permit being applied for.
6. The original of the surety bond (Refer to Section 27-71-21 and/or Title 35 of the Mississippi Administrative Code, Part II, Subpart 2, Chapter 1).
7. A complete, current and accurate summary financial statement(s) on Form 2007 as follows:
   a. Sole Ownership – on the owner.
   b. Partnership – on the partnership and each partner thereof.
   c. Corporation for profit – (Non Profit excepted)
      i. On-Premises Retailer – each officer who owns five percent (5%) or more of the stock of such corporation and all major stockholder
      ii. All other permit classes – financial statements are required for each officer and/or major stockholder.
   d. In addition to the foregoing, if any applicant for a permit is doing business with out-of-state bank(s), letter(s) from said bank(s) verifying the current status of any and all loans, checking and savings accounts, certificates of deposit and a general recommendation from said bank(s) must be included therein.
8. A statement of ownership (Form 1011).
9. Personal records and fingerprint forms (Form 1001).
10. Sales tax registration.
11. Food Service Permit, Form No. 307 (Form 1000).
12. A copy of a waiver of the distance requirements form a church or funeral home if applicable. Where the transfer of a permit results in a change in use (i.e.) from an On-Premises Retailers Permit to a Package Retailer's Permit or vice versa) a new waiver will be required.

101 NOTE: Bed and breakfast inns listed on the National Register of Historic Places are exempt from all distance requirements.

102 The Alcoholic Beverage Control Division of the Mississippi State Tax Commission may, in its discretion, require any applicant for a retailer permit to submit any and all other information and/or reports which it may deem necessary and expedient in the consideration of an existing permit or in the processing of any original permit.

103 NOTE: The forms required to be completed in the processing of application for any retailer permit or for renewal of any retailer permit can be obtained from the Alcoholic Beverage Control Division of the Mississippi State Tax Commission.

104 (Reserved)

Chapter 12 Hotels

100 A hotel, as that term is defined by Miss. Code Ann. § 67-1-5(L) (Amended May 1, 1987), possessing fifty (50) or more sleeping rooms and lying within a municipality having a population exceeding twenty-five thousand (25,000) shall not be required to have a dining room, or otherwise serve food, as a requirement to qualify for an on-premise alcoholic beverage permit.

101 (Reserved)

Chapter 13 Temporary Alcoholic Beverage Permits

100 A Class I one-day Temporary Alcoholic Beverage permit, authorizing the sale of alcoholic beverages by the drink, may be issued by the Commission to a bona fide nonprofit civic or charitable organization. Class I one-day Temporary Alcoholic Beverage Permits shall permit the sale and consumption only at the authorized location during the times permitted for other on-premises retailer locations in the city or county where the permit is issued pursuant to Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 4.

101 Application forms provided by the ABC for Class I Temporary Alcoholic Beverage Permits shall be completed by the applicant, under oath, and furnished to the Commission, setting forth that the applicant complies with the requirements of Miss. Code Ann. §§ 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. The Commission may deny an application for failure to timely complete the application or, upon review of said application, may deny said application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a Temporary Alcoholic Beverage Permit, or an appeal from such denial, shall be conducted in accordance with Title 35 of the Mississippi Administrative Code, Part II, Subpart 4, Chapter 1; and Miss. Code Ann. § 67-1-39.

102 All alcoholic beverages purchased for resale by a temporary permittee shall be purchased from a package retailer in the county in which the permit is located. The applicant shall set forth on his application the package retailer(s) from which said purchase(s) will be made, including the quantity to be purchased. All applicable sales and use taxes must be paid by the Class I Temporary Alcoholic Beverage Permit holder. Any bottled alcoholic beverages remaining in the possession of the Class I Temporary Alcoholic Beverage Permit holder may, with approval of the package retailer, be returned to said package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.

103 Any package retailer or Class I Temporary Alcoholic Beverage Permit holder violating the terms of this regulation may, at the discretion of the Commission, have his permit suspended or revoked, or may be denied a future permit by the Commission.

104 All permit fees and filing fees are to be paid by the temporary permittee, in advance, with certified funds.

105 A Class II Temporary Alcoholic Beverage Permit may be issued only in conjunction with a transfer application submitted by a prospective permittee seeking an on premises retailer or package retailer permit currently in effect at the particular location for which the transfer is sought. No Class II Temporary

106 Alcoholic Beverage Permit may not be issued or transferred while there is pending in the Courts, or before the Commission, any charge of keeping a disorderly house, or of violating the Alcoholic Beverage Control Laws, Rules and Regulations, or the laws against gambling in the State, pursuant to Miss. Code § 67-1-67.

107 Application forms for Class II Temporary Alcoholic Beverage Permits provided by the ABC shall be completed by the applicant, under oath, and furnished to the Commission, setting forth that the applicant complies with Miss. Code Ann. §§ 67-1-11, 67-1-37, 67-1-51 (2) and (3), 67-1-57, and 67-1-59. The applicant shall have fourteen (14) days from the issuance of the temporary permit to submit all documents and other materials required by Title 35 of the Mississippi Administrative Code, Part II, Subpart 2, Chapter 11. Upon the failure of the applicant to submit these matters within said time, the temporary permit will lapse and liquor sales will be prohibited. The Commission may deny an application for failure to timely complete said application or, upon review of said application, may deny said application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a permit, or an appeal of such denial, shall be conducted in accordance with Title 35 of the Mississippi Administrative Code, Part II, Subpart 4, Chapter 1; and Miss. Code Ann. § 67-1-39.

108 Upon approval of a Class II Temporary Alcoholic Beverage Permit, the temporary permittee must purchase his alcoholic beverages directly from the Commission and/or, with the Commission's prior approval, purchase the remaining inventory of the previous permittee. Class II temporary permittee shall pay additional privilege fees as set forth in Miss. Code Ann. § 27-71-5(m). Any accumulated balances of purchases and additional privilege fees of the original on-premises retailer permittee shall be transferred to the new permanent transferee.

109 A Class II Temporary Alcoholic Beverage Permit issued to temporary permittee shall run for a period of seventy (70) days unless applicant fails to meet the fourteen (14) day requirement for complying with Title 35 of the Mississippi Administrative Code, Part II, Subpart 2, Chapter 11. An application for a Class II Temporary Alcoholic Beverage Permit shall be filed at least seventy (70) days prior to the expiration of the original permit sought to be transferred. In the event less than seventy (70) days remains on the original permit, then a renewal application, signed by the original owner, must accompany the Class II Temporary Alcoholic Beverage Permit application.

110 Upon issuance of a Class II Temporary Alcoholic Beverage Permit, an "Administrative Hold" shall be placed on the original permit. The time remaining on the original permit shall continue to run, but no alcoholic beverages may be purchased from the ABC on the original permit. Furthermore, alcoholic beverages can only be sold and consumed pursuant to the Class II Temporary Alcoholic Beverage Permit and not by authority of the

original permit as long as the "Administrative Hold" is in force. An "Administrative Hold" may be removed by the Director of the ABC following the Commission's approval of a transfer or following proof that the original owner has retained the particular location and the Class II temporary permittee no longer desires the permit.

111 The hours for sale and consumption of alcoholic beverages for Class II Temporary Alcoholic Beverage permittees shall be the hours authorized for similar permittees located in the city or county where the permit to be transferred is located pursuant to Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 9, or as set by state law.

112 Permit fees, filing fees, additional privilege fees and alcoholic beverage purchases from the ABC are to be paid by the temporary permittee, in advance, with certified funds.

113 (Reserved)

Chapter 14 Caterer's Permits

100 A caterer's permit authorizing the purchase and resale of alcoholic beverages by caterers of food may be issued by the Commission upon application, if the applicant meets the qualifications as provided for by Miss. Code Ann. §§ 67-1-53, 67-1-55 and 67-1-57.

101 Caterers are subject to all rules and regulations which apply to on-premise retailers.

102 Caterers shall provide the ABC with notice of the location of the catered event 10 days prior to the event, on forms supplied by the ABC. A copy of the license shall be prominently displayed on the premises of the catered event.

103 The agents of the ABC Division of the State Tax Commission shall be permitted to enter the catered premises for the purpose of inspecting the premises and carrying out any enforcement responsibilities necessary. Should the permittee, its agents, servants or employees interfere, impede or hinder in any manner the ABC agents from carrying out their duties under the provisions of the law and regulations pertaining to the sale of alcoholic beverages, it shall be the duty of the Commission to impose a penalty amounting to either suspension or revocation of the caterer's permit.

104 Records are to be maintained by the caterer which clearly reflect the receipt of alcoholic beverages from the Commission, as well as the sale of alcoholic beverages and all food sales. All records shall be kept and maintained separately from the records pertaining to any on-premises permitted place of business operated by the caterer. The ABC shall be permitted to examine any books, papers, records or other data which pertain to purchases, costs and expenditures incurred by the permittee incident to the operation of the catering business. Caterers must comply with Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 6.

105 The Commission may revoke or suspend the caterer's permit issued by it for violation of the rules, regulations and statutes, as they pertain to alcoholic beverages, by the permittee or any agent, employee, associate, representative thereof, or for violations committed by any guests or individuals present at the catered event.

106 (Reserved)

Chapter 15 Alcohol Processing Permit

100 An alcohol processing permit may be issued with the approval of the Commission to any person, firm, or corporation upon written application with applicable filing fees to the Alcoholic Beverage Control Division of the State Tax Commission. If said applicant is a corporation, an officer of such must affix their signature upon the application. If said applicant is a partnership, each partner must affix their signature upon the application. The processing permit is a non-retail permit and shall be issued and maintained only upon a showing that the use of alcoholic beverages is for legitimate cooking, processing, or manufacturing purposes and that the applicant meets the qualifications, as provided for by Miss. Code Ann. §§ 67-1-53, 67-1-55 and 67-1-57.

101 The permittee must indicate the estimated annual amounts of usage of alcoholic beverages. These amounts may be increased upon sworn affidavit of the permittee with the Alcoholic Beverage Control Division. It shall be a violation of these regulations for the permittee to use or possess more alcoholic beverages than set forth in the permit.

102 There shall be no minimum purchase amount required when acquiring alcoholic beverages; however, if the permittee wishes to purchase product from the Alcoholic Beverage Control Division the minimum purchasing limits set forth by that agency must be followed. All products used by the permittee must be purchased within the State of Mississippi and the permittee will be required to maintain on site storage of all alcoholic beverages. In addition, it shall be mandatory that inventory records be kept and preserved by the permittee for a period of three (3) years which include the itemized purchase invoices and tickets bearing the date of purchase and name of the seller of all alcoholic beverages. The Alcoholic Beverage Control Division reserves the right at any time to inspect all such inventory records as well as the permitted premises.

104 The Commission may revoke or suspend the processors permit for violation of any of the Alcoholic Beverage Control Local Option rules, regulations, or statutes by the permittee or any agent, employee, associate, or representative thereof.

104 (Reserved)

Subpart 03 Warehouse Operations

Chapter 01 Disposition of Inventory When Permit Is Revoked or Not Reissued or When Counties Vote to Go Back under Prohibition Laws

100 When the alcoholic beverage license of any permittee is revoked by the State Tax Commission, the Alcoholic Beverage Control Division of the State Tax Commission shall have the right to immediately take possession of any and all alcoholic beverages remaining in stock of the aforesaid permittee and refund shall be made to the permittee at the then current wholesale price thereof, less a charge of Five Dollars ($5.00) per case for handling and transporting same back to the warehouse in Gluckstadt, Mississippi, but all license fees paid by such permittee shall be forfeited. Such confiscated alcoholic beverages shall be placed in the Alcoholic Beverage Control Division inventory and sold in the regular course of business.

101 If a permit expires and the permittee has made no application for renewal, or the Commission decides not to reissue the permit, the permittee shall be given a period of ten (10) days after the expiration of the permit within which to make a sale of the alcoholic beverages then on hand to another permittee, and if a purchaser is found thereof, the permittee, before making sale of his stock of goods, shall comply strictly with the following procedures:

1. A written application on forms to be furnished by the Alcoholic Beverage Control Division shall be submitted for consideration by the Director, along with a complete and detailed inventory of all merchandise on hand.
2. The application shall be signed by the holder of the license who desires to sell the merchandise and by the permit holder who desires to purchase said merchandise. No sale shall be made except to a retail establishment which has been duly licensed by the Alcoholic Beverage Control Division of the State Tax Commission.
3. Sales or commitments to sell or purchase alcoholic beverages under the provisions of this regulation shall be made subject to the written approval of the Alcoholic Beverage Control Division.
4. If the prospective purchaser is an on-premise retailer permittee and the Director approves the purchase, for purposes of Section 27-7-1-5, Mississippi Code of 1972, the current wholesale value of the alcoholic beverages thus purchased shall be recorded just as any regular purchase of alcoholic beverages from the warehouse on the permittee's purchase records maintained in the Accounting Department of the Alcoholic Beverage Control Division.

102 In the event such permittee is not available to make a sale of the alcoholic beverages on hand, the same shall be picked up by the Alcoholic Beverage Control Division and the permittee given refund therefor at the then current wholesale price, unless the merchandise is damaged by excessive price markings shop wear, or has old, faded and dirty labels, then the Director of the Alcoholic Beverage Control Division may determine the effect such damage will have on the stability of the returned alcoholic beverages and may adjust the refund to the permittee accordingly. The Division shall have the right to deduct Five Dollars ($5.00) per case for handling and transportation back to the warehouse in Gluckstadt, Mississippi.

103 License holders desiring to discontinue business prior to expiration of the alcoholic beverage permits shall surrender their permits for cancellation and may dispose of their stock under the conditions outlined in paragraphs numbered 1, 2, 3 and 4 above.

104 License holders who desire to return their stock to the ABC Division Warehouse in Gluckstadt, Mississippi, may return same at the discretion of the Commission, by a method prescribed by the Alcoholic Beverage Control Division at the then current wholesale prices as reflected in the Alcoholic Beverage Control Division Price List, but no refund will be made for special orders, novelty items contained in dual packaged products, ceramic decanters, holiday packages or delisted items, or the Permittee may dispose of his alcoholic beverage stock as outlined in paragraph numbered 1, 2, 3 and 4 above. The Alcoholic Beverage Control Division will charge the permittee Five Dollars ($5.00) per case, which charge will cover all handling, packaging, and return freight charges required in connection with the return of such alcoholic beverage stock to the ABC inventory at the ABC Division Warehouse in Gluckstadt, Mississippi.

105 Applications to return alcoholic beverage stock to the ABC Division Warehouse or to sell the stock to another permittee must be filed with the Permit Section and approved by the Director of the Alcoholic Beverage Control Division.

106 If any county or judicial district which has therefore voted to come out from under the prohibition laws of this state as provided in Section 67-1-11, Mississippi Code of 1972, Recompiled, shall vote to go back under the aforesaid prohibition laws of this state, the Alcoholic Beverage Control Division of the State Tax Commission shall have the right to take possession of all alcoholic beverages held in stock by all permittees within the aforesaid county or judicial district before the effective date of the order of the board of supervisors putting into effect the result of said election, and shall make refund at the then current wholesale price thereof to the aforesaid permittees, less a Five Dollar ($5.00) per case charge for handling and transportation back to the warehouse in Gluckstadt, Mississippi, but all license fees theretofore paid by such permittee shall be forfeited.

107 However, the provisions of this regulation which provide for a credit of merchandise returned to the warehouse shall not apply to those permittees making purchases of delisted items, novelty items contained in dual packaged products, ceramic decanters, holiday packages or special orders. Such special merchandise shall not be redeemed by the State of Mississippi under any circumstances. All redeemed inventory will be placed in the ABC inventory.

108 (Reserved)

Chapter 02 Uniform Prices

100 Alcoholic beverages will be sold by the Alcoholic Beverage Control Division at uniform prices throughout the state. Prices of alcoholic beverages as published by the Alcoholic Beverage Control Division are f.o.b. retailer and contain all taxes with the exception of the Mississippi sales tax and the warehouse surcharge.

101 (Reserved)

Chapter 03 Cash Payment

100 Alcoholic beverages shall be sold by the Alcoholic Beverage Control Division to the permittees and payment for all orders must be made by cash, bank check, cashier's check, bank exchange (draft), post office money order or express money order. Permittees must send payment with their written orders on forms supplied by the Alcoholic Beverage Control Division or be authorized for bank exchange (draft) status.

101 The ABC Division will draft upon the permittee's bank account for the amount of each invoice if the proper authorization is received by the ABC Division from the permittee and the permittee's bank.

102 If payment is dishonored or insufficient after a permittee has received an order on which the payment was made the Commission may in its discretion immediately notify the permittee and require a temporary discontinuance of sales of alcoholic beverages until such time as payment is received or a hearing may be held on the matter.

103 If payment is dishonored for insufficient funds and it is not a bank error after a permittee has received an order on which the payment was made, the permittee will be placed on certified funds for a period of three (3) months. If a second dishonored check or bank exchange is received and it is not a bank error the permittee will be placed on certified funds for one (1) year. A second dishonored payment will require that the permittee secure an additional five thousand dollar ($5,000) bond. If the permittee has more than two (2) dishonored payments the permittee will be placed on certified funds for a period of three (3) years. Any additional dishonored payments after the initial three (3) year certified funds period will result in additional three (3) year periods of certified funds. At the end of the certified funds periods (3 months – 1 year – 3 years) the permittee must make written application to the ABC Director for reinstatement of the use of regular bank checks or bank exchange (draft). The permittee will be given ten (10) days from the date of notification of the dishonored payment to replace the dishonored payment or the permittee will be placed on the Commission agenda to begin the process to revoke the permit.

104 (Reserved)

35.II.03.03 revised effective August 20, 2007.

Chapter 04 Split Cases

100 A number of sizes of selected items will be subject to split case sales. These items will be noted on the price lists published by the Alcoholic Beverage Control Division. Less than full cases of alcoholic beverages can be sold by the Alcoholic Beverage Control Division to retailers. The current price list will contain instructions for ordering split cases.

101 (Reserved)

Chapter 05 Special Order Procedures

100 Special orders for any and all types of alcoholic beverages not currently listed on ABC's price list and not prohibited by Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 5 may be placed by package or on premises permittees in case lots only, excluding ceramic decanters which may be ordered only by package retailers. A Mississippi Native Wine Tax Stamp must be placed on all bottles or containers of native wine. See Title 35 of the Mississippi Administrative Code, Part II, Subpart 5, Chapter 3.

101 Special orders will be received by the Alcoholic Beverage Control Division Purchasing Department and processed as promptly as feasible.

102 The Purchasing Agent of the Alcoholic Beverage Control Division will obtain the prices from the supplier and use the regular pricing formula in arriving at wholesale prices to be submitted to the permit holder. Upon receipt of the quotation, the permit holder may place a firm order with the Purchasing Agent attaching his remittance to cover the entire cost.

103 In addition, the provisions of Title 35 of the Mississippi Administrative Code, Part II, Subpart 3, Chapter 1 dealing with the return of merchandise by permittees to the Alcoholic Beverage Control Division Warehouse shall not apply to special order merchandise. Such special order merchandise shall be redeemed by the State of Mississippi ONLY as dry concealed damage as set forth in the Alcoholic Beverage Control Price List Book.

104 The Purchasing Agent is authorized to promulgate procedural details to effectuate the purpose of this regulation.

105 (Reserved)

Chapter 06 Importers', Vintners', and Distillers' Warehouses

100 Importers, vintners and distillers may warehouse and store special purchase item alcoholic beverages which are not listed on the current Alcoholic Beverage Control Price List in private bonded warehouses in Mississippi for the ultimate use and benefit of the State Tax Commission by obtaining prior approval from the State Tax Commission. Bonded warehouses may be owned or operated by any entity which posts the required bond hereinafter set out.

101 Before any entity shall engage in warehousing and storage, a Ten Thousand Dollar ($10,000.00) Bond must be tendered to and approved by the Alcoholic Beverage Control Division of the State Tax Commission, thereby insuring that the entity will strictly comply with all laws, rules and regulations of the State, and shall pay all taxes due the State of Mississippi.

102 No alcoholic beverages shall be shipped into the State of Mississippi for storage in a private bonded warehouse without the prior written authority of the Alcoholic Beverage Control Division of the State Tax Commission. An itemized list of all shipments to such warehouses shall be furnished to the A.B.C. by the importer, vintner or distiller. The importer, vintner or distiller must affix the proper Mississippi A.B.C. item code label to

each case shipped for storage. Within 24 hours of the receipt of the shipment, the private bonded warehouse, shall provide A.B.C. with an itemized list of the alcoholic beverages received and the condition of the inventory. All such shipments must be for sale only to the Alcoholic Beverage Control Division of the State Tax Commission.

103 No withdrawal from inventory shall be permitted from bonded warehouses for shipment outside the State of Mississippi, unless special permission is obtained from the Director of the Alcoholic Beverage Control Division of the State Tax Commission.

104 Shipments from a private bonded warehouse to the Liquor Distribution Center must be by common carrier unless prior written approval of an alternate shipper is obtained in writing from the Director of the Alcoholic Beverage Control Division of the State Tax Commission. All shipments to the Liquor Distribution Center must be accompanied by a standard bill of lading with the following additional information: the number of cases shipped, a description of the product(s) shipped, and the Mississippi ABC item code for the product(s) shipped. Cases shipped from a private bonded warehouse to the Liquor Distribution Center will be inspected by the ABC staff and refused if the shipment contains unlabeled/uncoded cases, damaged cases, or mis-shipped cases.

105 Shipments from a private bonded warehouse to the Liquor Distribution Center will be limited to one day per week, said day to be designated by the Director of the Alcoholic Beverage Control Division of the State Tax Commission.

106 No alcoholic beverage samples shall be shipped into, stored, or shipped out of a private bonded warehouse.

107 Each private bonded warehouse shall store its inventory of alcoholic beverages in an area so designated by the warehouse for alcoholic beverages, and shall maintain the inventory in a salable condition at all times. The alcoholic beverages shall not be interspersed with other goods stored in the private bonded warehouse.

108 The private bonded warehouse's alcoholic beverage records and alcoholic beverage inventory shall be open for examination at any time by the Director or staff of the Alcoholic Beverage Control Division of the State Tax Commission. Failure to keep up-to-date, accurate inventory and shipment records or to allow examination of the records or the inventory shall subject the warehouse to the immediate suspension of its rights to ship to the Liquor Distribution Center.

109 All theft of alcoholic beverages must be immediately reported to the local authorities and to the ABC.

110 An inventory, certified by the bonded warehouseman with whom such alcoholic beverages are stored, shall be furnished the Alcoholic Beverage Control Division of the State Tax Commission within five (5) days after the close of business at the end of each calendar month.

111 The Director of the Alcoholic Beverage Control Division of the State Tax Commission is authorized to promulgate procedural details to effectuate the purpose of this regulation.

112 Importers, vintners and distillers are required to comply with all Federal guidelines and/or regulations.

113 (Reserved)

Chapter 07 Procedure for Listing Alcoholic Beverage Items

100 New listings will be considered by the Commission four (4) times each year at a scheduled meeting nearest the following dates: February 1, May 1, August 1, and November 1. In order for a product to be considered for listing on these dates, it must have met or exceeded the nine (9) month case sales formula outlined below. All requests for listings must be submitted two (2) months prior to the date chosen for the listing.

101 In addition, the Commission retains full discretion to list any products which it may see fit at any time during the year. Each company or agent thereof shall submit to the Alcoholic Beverage Control Division the new items it wishes to list. All requests must be submitted in writing to the Director and substantiated by facts and figures regarding prices, specifications, alcohol content and other relevant information requested.

102 **NINE MONTH CASE SALES FORMULA**

	1.75L	750ML 1L	500ML 375ML	100ML 200ML	50ML
Bottled-in-bond and Straight Bourbon					
$0.00 to $12.00	90				45
$12.01 up		45			
$0.00 to $5.00		135			
$5.01 to $7.00		90			
$7.01 to $9.99		60			
$10.00 up			45		
$0.00 to $4.00			90		
$4.01 to $6.00			60		
$6.01 up				45	
$0.00 to $2.00				90	
$2.01 to $4.99				60	
$5.00 up					45
Whiskies	135	135	90	90	45
Blended Whiskies	90	135	90	90	45
Corn Whiskies	135	135	90	90	45
Tennessee Whiskey	45	135	60	60	45
Irish Whiskey		90	60	60	45
Rye Whiskey		60	60	60	45

Canadian Whiskey					45
$0.00 to $15.99	90				
$16.00 up	45	45			
$0.00 to $7.99		135			
$8.00 to $15.99		90			

NINE MONTH CASE SALES FORMULA

	1.75L	750ML 1L	500ML 375ML	100ML 200ML	50ML
Canadian Whiskey					
$0.00 to $4.00			90		
$4.01 up			60		
$0.00 to $2.50				90	
$2.51 up				60	
Scotch					45
$0.00 to $15.00	90				
$15.01 up	45	45			
$0.00 to $7.00		135			
$7.01 to $15.00		90			
$0.00 to $5.00			90	90	
$5.01 up			60	60	
Gin					
$0.00 to $10.99	90	135			
$11.00 to $14.49	45	90			
$14.50 up	45	45			
$0.00 to $2.99			90		
$3.00 to $4.99			60		
$5.00 up			45		
$0.00 to $2.49				90	45
$2.50 up				60	
Vodka					
$0.00 to $10.00	90	135			
$11.00 to $14.49	45	90			
$14.50 up	45	45			
$0.00 to $2.99			90		
$3.00 to $4.49			60		
$5.00 up			45		
$0.00 to $2.49				90	45
$2.50 up				60	
Flavored Vodka					
$0.00 to $7.99		90			45
$8.00 to $11.99		60			
$12.00 up		45			
$0.00 to $4.49			60	60	

$5.00 up			45	45	

NINE MONTH CASE SALES FORMULA

	1.75L	750ML 1L	375ML	500ML 200ML	100ML 50ML
Flavored Gin	90	90	90	90	45
Rum					
$0.00 to $7.99	90	135			45
$8.00 up	45	90			
$0.00 to $2.49			90	90	
$2.50 up			60	60	
Tequila					
$0.00 to $10.99	45	90	45		25
$11.00 to $13.99	45	90	60		
$0.00 to $2.49				90	45
$2.50 up				60	
$20.00 up		25			
$14.00 to $19.99		45			
Cocktails	45	90	90	90	45
Alcohol		90	60	60	45
Brandy	45	90	45	45	45
Cognac-Brandy Imported					
$0.00 to $12.00	45	90	45	45	45
$12.01 up		45			
Brandy (Flavored)	45	90	60	45	45
Liquor & Cordial Dom	45	45	45	45	45
Liquor & Cordial Imported	45	45	45	45	45
Specialty		45			45
Vermouth		45	45		

NINE MONTH CASE FORMULA

Still Wines and Sparkling Wines (Imported and Domestic)

	10L 12L 18L	3L 4L 5L	1.5L 2L	750ML 1L	355ML 375ML 500ML	187ML
$0.00 up		45	45			
$0.00 to $0.99			90	90	90	90
$1.00 to $1.99			90	90	90	90
$2.00 to $2.99			90	90	45	45

$3.00 to $3.99	90	90	35	35
$4.00 to $5.99	90	45	25	25
$6.00 to $8.99	45	35	25	25
$9.00 up	45	25	25	25

103 The foregoing formula is based on cases actually sold to permittees and not based on cases ordered. Cases that are ordered by permittees, but not sold due to the fact that the product ordered be out of stock or for any other reason will not be considered in the application for this formula.

104 Furthermore, any special order item that meets or exceeds the nine (9) month case sales formula may, at the Commission's discretion, be placed in the ABC Division's Price List.

105 "One-of-a-kind" and "Christmas" items are exempt from the quota requirements. No "Christmas" item shall contain cash, coupons, rebates, or any items subject to spoilage.

106 Price changes will be considered four (4) times each year and will become effective on the following dates: February 1, May 1, August 1, and November 1. Such changes to be considered for February 1, must be filed with the Alcoholic Beverage Control Division by December 1; for May 1, by March 1; for August 1, by June 1; for November 1, by September 1.

107 A Mississippi Alcoholic Beverage Control Stamp must be placed on each bottle or container of native wine produced. See Title 35 of the Mississippi Administrative Code, Part II, Subpart 5, Chapter 3.

108 The Director of the Alcoholic Beverage Control Division is authorized to promulgate procedural details, including a pricing formula, to effectuate the purpose of this regulation and to defray additional cost.

109 (Reserved)

Chapter 08 Procedure for Delisting/Deleting Alcoholic Beverages

100 Any items on the Alcoholic Beverage Control Division's price list will be delisted for failure to meet the nine (9) month case sales standard set out in Title 35 of the Mississippi Administrative Code, Part II, Subpart 03, Chapter 7; however, the Commission may, in its discretion, continue to maintain an item in its price list provided the number of sales for the particular product constitutes ninety percent (90%) of the standard for that item, as stated in the nine (9) month case sales formula. Furthermore, the Commission reserves the right to delist any item as punishment for violation of any law or regulation or when, in its opinion, the best interest of the Alcoholic Beverage Control Division may be served.

101 The storage of items at the Liquor Distribution Center is strictly a voluntary act by its owner(s). The Commission retains the right, however, to regulate the location of all

items placed in bailment. Failure of a company to either stock a bailment item within thirty (30) days after the effective date of the price list or failure of a company to maintain an adequate inventory, as designated by the Commission, may result in the delisting of the item.

102 Any bailment item voluntarily removed by the company, or delisted by the Commission, shall be removed from the State at the direction and under the control of the Commission. Delisted items must be removed from bailment within thirty (30) days from the date of delisting. Any item delisted will not be eligible for relisting for a minimum of one (1) listing period. Delisted items may, subject to Commission approval, be offered as a special order item, pursuant to Title 35 of the Mississippi Administrative Code, Part II, Subpart 03, Chapter 5.

103 (Reserved)

Chapter 09 Dual Packaging

100 The holder of a manufacture's or wholesaler's permit may submit to the Alcoholic Beverage Control Division certain unit packages consisting of a specialty or novelty item and an alcoholic beverage previously listed with the ABC for sale in retailer package stores. Novelty items include, but are not limited to: T-shirts, sportswear, glass wear, stone wear, flags, and banners. However, goods subject to spoilage will not be permitted. All products containing dual packaged items must have prior approval of the Alcoholic Beverage Control Division.

101 The unit packages shall be assembled prior to shipment to the Alcoholic Beverage Control Division Warehouse located in Gluckstadt, Mississippi, and shall be contained in sealed packages. Novelties may not be sold separately but must be sold as a unit in one original, unopened package. Dual package items will not be sold in split cases. The Alcoholic Beverage Control Division will not be responsible for damaged or defective dual packaged products other than alcoholic beverages.

102 (Reserved)

Chapter 10 Bailment Procedures - Policies and Procedures of Mississippi Alcoholic Beverage Control Bailment Warehouse System

100 Effective April 29, 1991, the Tax Commission's Alcoholic Beverage Control Division (ABC) began bailment warehouse operations. A bailment warehouse is a warehousing method whereby alcoholic beverages owned by the vendor are stored in the Liquor Distribution Center (LDC) for subsequent shipment to retail permittees. NABCA shall hereinafter refer to the National Alcoholic Beverage Control Association.

101 Under the bailment system, ABC inventory is used first; when the ABC inventory is insufficient, the vendor's inventory is utilized.

1. <u>Warehouse Location</u>

All bailment alcoholic beverages received by the ABC will be stored at the Liquor Distribution Center located at 1286 Gluckstadt Road, Madison, Madison County, Mississippi. The mailing address is P.O. Box 540, Madison, Mississippi 39130-0540.

2. Designation of Product Location

   The ABC will determine the location of all alcoholic beverages stored in its distribution center. The existing product locations will be maintained whenever possible, however, the ABC reserves the right to manage warehouse space allocation.

3. Stockownership and Bailment Replenishment
   a. Vendors will own and control the stock that enters the ABC Distribution Center (See APPENDIX E- inventory.)
   b. The ABC will routinely authorize the product into the distribution center for restocking purposes.
   c. The ABC will require that vendors designate an agent, who will be responsible for approving stock withdrawal, APPENDIX A: MISSISSIPPI BAILMENT WAREHOUSE VENDOR'S AUTHORIZED REPRESENTATIVE. Vendors must update this document as needed.
   d. The ABC will notify the vendor's agent during the last week of each month of their intention to purchase specified inventory belonging to the vendor based on anticipated needs for the following month. If the vendor does not respond within 2 hours after receipt of notification, the vendor will be deemed to have authorized the anticipated purchase. This report shows the maximum anticipated purchases.
   e. Actual purchases may differ due to:
      i. Availability of the vendor's product on the date the inventory was picked;
      ii. Availability of new receipts into the distribution center;
      iii. And, the availability of any ABC owned inventory, which will be removed first.
   f. The receipt of bailment merchandise is according to the terms and conditions listed in APPENDIX C: "RECEIVING DOCKS, OVERAGE, STORAGE AND BREAKAGE".
   g. Vendors' agents may obtain weekly reports showing the activity of their products from the NABCA.

4. ABC Purchases
   a. To provide for product availability for privately owned permittees, the ABC will advise vendors of the codes and quantities that will be needed during a particular time period as described in 3b and 3d.
   b. When ABC receives requests for an item that is not listed in its Price Book. ABC will attempt to satisfy these requests through the special order procedure established in Title 35 of the Mississippi Administrative Code, Part II, Subpart 3, Chapter 5.
   c. A number of alcoholic beverages will be subject to split-case sales. Items available in split-case will be determined by ABC through established procedures.

5. Withdrawal of Bailment Inventory by Vendor
   a. The vendor may withdraw alcoholic beverages from bailment for the following reasons:
      i. Redistribution to other areas. The vendor cannot redistribute the product to permittees in Mississippi.

ii. If the product is unsalable (APPENDIX D, 4).
iii. If the product has been delisted (9 a,b).

b. The ABC must approve the removal of any product before it can be removed from the distribution center. Such approval must be approved 24 hours in advance of the removal and may occur during distribution center delivery hours (APPENDIX C, 1 f).
c. The vendor must provide a motor carrier to be used when removing product from the distribution center.
d. ABC will load the product on to the truck. The carrier's driver will observe the loading. Both the ABC representative and the driver must sign the Bill of Lading and a copy of the document will be provided to the vendor. ABC will adjust the bailment inventory records.
e. ABC will charge the vendor a handling fee to cover the costs of requested withdrawal.

6. ABC Charges

The ABC has historically charged for certain services. These charges will continue on the following items.

a. Labeling
b. Re-packing
c. Damage Re-packing
d. Reloading for shipping

7. Federal and Other Requirements

a. Vendors must comply with Federal guidelines and/or regulations.
b. Prior to using ABC's distribution center, each vendor will be required to execute the bailment agreement and have designated an agent (3c).

8. Insuring the Inventory

a. The ABC will not carry insurance on the vendor's inventory in bailment nor be responsible for any loss except as provided for in APPENDIX D: "INVENTORY OVERAGE, SHORTAGE OR DAMAGE OCCURRING WHILE VENDOR'S INVENTORY IS HELD IN BAILMENT."
b. Vendor's agents will be provided inventory reports to assist vendors in determining the value of their inventory. This report may be obtained from the Purchasing Department.

9. Listing/Delisting Products

a. The ABC will continue listing/delisting procedures as detailed in Title 35 of the Mississippi Administrative Code, Part II, Subpart 03, Chapters 7 and 8.
b. Following notification of delisting, the vendor will have 30 days to remove the product from the ABC Distribution Center. All products remaining after the 30-day period shall become the property of ABC for disposition as it sees fit.

10. Claims by Vendor

Claims by vendor must be presented in writing to the ABC within 30 days after vendor's claim arises.

11. Additional Documents

The ABC may submit to vendor and/or the vendor's agent, or may require the vendor or vendor's agent to submit to ABC, other documents necessary to conduct its operations.

Required Bailment Agreement Form

102

BAILMENT AGREEMENT BETWEEN ALCOHOLIC BEVERAGE CONTROL AND

The Alcoholic Beverage Control Division, hereinafter referred to as the ABC, headquartered at 1286 Gluckstadt Road, Madison, Mississippi 39110, and _____, hereinafter referred to as the Vendor, headquartered at _____, entered into this agreement for the purpose of operating a bailment warehouse program. This agreement will be effective _____, and will remain in effect until cancelled in writing by the ABC or vendor with 30 days notice.
A bailment warehouse program is defined as meaning the Vendor will own the stock in the ABC Liquor Distribution Center until it is withdrawn from bailment for shipment to the ABC permittees.

The ABC and the Vendor agree to the following:

1. The vendor agrees to place, without charge, approved items of alcoholic beverages into the ABC's distribution center at 1286 Gluckstadt Road, Madison, Mississippi, 39110. The items are to be shipped in accordance with the ABC's shipping instructions and, when shipped, are to be cosigned to the vendor, or his representative or agent, in care of the ABC's distribution center.
2. The ABC agrees to handle and store approved items furnished by the vendor for sale in Mississippi.
3. The vendor agrees that all price quotations for bailment stock will be delivered prices to the ABC's distribution center, including tax and duty on imported items.
4. THE ABC SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY TO ALCOHOLIC BEVERAGES STORED HOWEVER CAUSED UNLESS SUCH LOSS OR INJURY RESULTED FROM FAILURE OF THE ABC TO EXERCISE SUCH CARE IN REGARD TO THE STORED ALCOHOLIC BEVERAGES AS A REASONABLY PRUDENT PERSON WOULD EXERCISE UNDER LIKE CIRCUMSTANCES AND THE ABC IS NOT LIABLE FOR DAMAGES WHICH COULD NOT HAVE BEEN AVOIDED BY SUCH CARE.
5. The ABC agrees it will purchase any bailment stock which disappears or is broken by ABC employees while stored in the ABC's distribution center.
6. Subject to the 48 hour notice provision in Appendix E, ABC agrees to allow the vendor to conduct physical counts of its bailment stock in the distribution center for its own purposes, and to make selected reports available to the vendor for accounting reconciliation purposes.
7. The ABC agrees to request from the vendor authorization to purchase and withdraw from bailment stock, in advance, before the stock is pulled for shipment to its permittees. No response will be required unless permission to withdraw is denied.

8. The ABC agrees to issue payment vouchers and invoices at mid-month and month-end for withdrawals of the previous half-month. The ABC will pay for the products withdrawn directly from these documents; hence, no vendor invoices will be required.
9. The vendor agrees to secure any applicable state and/or federal basic permits and federal special occupational tax stamps that may be needed before any alcoholic beverages are shipped into the distribution center under the bailment program.
10. The vendor agrees that any bailment items delisted or unapproved items miss-shipped will be the responsibility of the vendor to remove from the ABC's distribution center.
11. The vendor agrees to abide by the bailment policies and procedures established by the ABC, which are specifically incorporated into this agreement.

_____	_____
Vendor Signature	ABC Signature
_____	_____
Date	Date

Vendor FAX Number _____
FAX Location _____
_____
_____

APPENDIX A

ALCOHOLIC BEVERAGE CONTROL DIVISION
STATE TAX COMMISSION
P.O. BOX 540, Madison, Ms. 39130-0540

(601 856-1301, FAX (601 856-1390

MISSISSIPPI BAILMENT WAREHOUSE VENDOR'S AUTHORIZED REPRESENTATIVE

1. Vendor's Company name:_____

Street:_____

City, State, Zip:_____

Telephone:_____FAX Number _____

The vendor designates the following representative(s) to authorize the ABC to purchase products from those maintained in the bailment distribution center. Products shipped to the bailment distribution center by the vendor are consigned to the vendor's representative(s) for the purpose of making sales at the bailment distribution center to the ABC. The vendor agrees that its designated representative will indicate its acceptance or rejection, in whole or in part, of an ABC Division order for products maintained in the bailment distribution center within two hours of receipt of the order, or the ABC's order will be deemed to have been accepted. The vendor is responsible for up-dating this document as needed.

2. Representative's Name:_____

   Street:_____

   City, State, Zip:_____

   Telephone:_____ Fax Number_____

3. Alternate Representative's Name:_____

   Street:_____

   City, State, Zip:_____

   Telephone:_____ Fax Number:_____

_____ _____

Signature of person authorized By vendor to sign and execute Documents — Print Name

Date_____ Title_____

APPENDIX B

COMPUTER REPORTS

1. The following reports and forms will be available from the NABCA.
   a. Weekly sales and inventory report
   b. Weekly stock outrage report
   c. Weekly bailment inventory restocking report
   d. Monthly active permit list
   e. Sales quota report (provided once annually)

2. Additionally, reports and statistical information may be obtained from the NABCA for a fee.

APPENDIX C

RECEIVING DOCKS – OVERAGE, SHORTAGE AND BREAKAGE

1. Scheduling

    a. Receiving into the bailment warehousing system will take place at distribution center located at 1286 Gluckstadt Road, Madison, MS.
    b. Product will not be unloaded if it is not shipped on pallets or slip-sheets.
    c. Vendors are required to supply ABC Distribution Center personnel with a Shippers Load Manifest at least seventy-two (72) hours in advance of shipment of quantities, by control state code of product being delivered to the ABC Distribution Center.
    d. The vendor will be responsible for obtaining the freight carrier.
    e. The carrier is required to call the Distribution Center to obtain an unloading appointment time. The carrier must indicate the vendor when scheduling the appointment. Carriers should call at least three (3) working days in advance to arrange the unloading time.
    f. Receiving hours will be 7:00 a.m. to 3:00 p.m. There will be no receiving on Saturdays, Sundays, or designated State holidays.
    g. The ABC will consider claims for demurrage or detention charges which are incurred as a result of untimely unloading as long as the carrier adheres to the delivery schedule mutually established by the ABC Receiving Officer and the carrier.

2. Receiving

    a. The ABC staff will complete a Receiving Report form for each load delivered. The case quantity shown on the form will reflect any overage or shortage compared to the manifest supplied by the carrier.
    b. ABC Distribution Center personnel will unload all products. Carrier drivers are required to witness the unloading. The driver and ABC representative will sign the unloading report form and the Bill of Lading or Delivery Report.
    c. If the ABC staff discovers an error in the receiving process, they will complete an Inventory Correction form which will be attached to the original receiving report.

3. Receiving Damaged Merchandise

    a. Because the ABC may purchase damaged goods and subsequently establishes a receivable with the vendor, the ABC Warehouse Operations Manager will be responsible for determining whether damaged goods are to be received into the bailment inventory. The staff will always attempt to resolve any problems in this area to the mutual satisfaction of the vendor and the ABC.
    b. The ABC believes that it is advantageous to the vendor and the ABC to accept merchandise with small amounts of damage which has occurred during the shipping process. At the discretion of the ABC Warehouse Operations Manager,

goods with slight damage will be received into the ABC inventory and placed in repack area. The ABC will purchase the damaged bottle(s) and file a claim against the vendor for recovery of the (damaged) bottle(s) purchase price.

c. When the ABC discovers substantial damage, the truck will be sealed and the vendor notified. The vendor or designated agent will be responsible for determining how the damaged goods are to be handled. The ABC staff will assist the vendor in substantiating the degree of damage, but the vendor is responsible for filing a claim against the carrier. No goods from the damaged shipment will be received into the distribution center until the ABC Warehouse Operations Manager is satisfied with the vendor's determination.
d. All products are owned by the vendor, It will be the responsibility of the vendor to file claims with the carrier to recover the cost of damages which occurred during the transportation of the alcoholic beverages.

APPENDIX D

INVENTORY OVERAGE, SHORTAGE OR DAMAGE OCCURRING WHILE VENDOR'S INVENTORY IS HELD IN BAILMENT

The ABC is responsible for the accuracy of documentation and the receiving and shipping process while the vendor's goods are in bailment.

1. Shortage

a. Shortage is defined as a physical quantity of a product which is less than the inventory records indicate.
b. The ABC will pay vendors for most types of shortages occurring while the inventory is held in bailment.
c. If the shortage is a result of a miss-shipment to a retail permittee, the ABC will retrieve the bottle(s) in error and adjust the vendor's inventory accordingly.
d. If the shortage is the result of undetected shrinkage of inventory, then the ABC accepts responsibility for the loss and will make the appropriate payment to the vendor.

2. Overage

a. Overage is defined as a physical quantity of a product which is greater than the inventory records indicate.
b. The ABC will place the overage in its own inventory.

3. Damages

a. In this context, "damages" refer to improper or careless handling by distribution center personnel only. The ABC will not insure nor be responsible for the vendor's product against fire, theft, water damage or any other cause or condition.

b. The ABC accepts responsibility for holding the vendor's goods in a safe and salable condition. The ABC Warehouse Operations Manager will notify vendors of improperly palletized, slip-sheeted or packaged products and, failing resolution, the merchandise may be placed in un-salable status.
c. The ABC will purchase damaged bottle(s) as defined in the first sentence of 3a (above).

4. Un-salable Products

An un-salable alcoholic beverage is defined as product that is not fit for human consumption. Un-salable alcoholic beverages located in the ABC Distribution Center will be disposed of in accordance with instructions provided by the vendor. Such disposition instructions must be provided by the vendor within 30 days after the vendor is notified of the un-salable alcoholic beverages. ABC may destroy the un-salable alcoholic beverages and invoice the vendor for handling charges if the vendor fails to provide disposition instructions.

Because retail permittees will be credited by the ABC for un-salable alcoholic beverages which are returned, vendors are required to grant a credit to the ABC for that product. Under no circumstances will the ABC be deemed to purchase any un-salable alcoholic beverages provided out of bailment stock.

APPENDIX E

INVENTORY

1. Physical Inventories
   a. The ABC will take physical inventory twice a year unless circumstances prohibit.
   b. Irreconcilable discrepancies will be resolved as follows:
      1. Physical shortage of the vendor's product: the ABC will pay the vendor for the missing product.
      2. Physical overage of the vendor's product: the ABC will place the surplus into its own inventory.
      3. Vendors may conduct their own physical inventories of stock held in bailment by arrangement with the Purchasing Agent at least 48 hours in advance.

2. Inventory Status
   a. Vendors, or their agents, should bring discrepancies to the attention of the Purchasing Agent at (601) 856-1340.

Subpart 04 Administrative Procedures

Chapter 01 Administrative Procedure before the State Tax Commission on the Alcoholic Beverage Control Statutes

100 All applications for permits shall be investigated under the direction of the Director of the Alcoholic Beverage Control Division of the State Tax Commission. If such investigation fails to reveal any reason why the permit should not be issued to the applicant, the aforesaid permit shall be issued by the Commission without further administrative procedure.

101 If the investigation of the application reveals sufficient grounds, which, in the opinion of the Director of the Alcoholic Beverage Control Division of the State Tax Commission or the said Commission, would justify the refusal to issue the permit, the applicant should be so notified.

102 If objection is filed to any applicant being issued a permit, investigation shall be conducted concerning the validity of such objection. If any person objects to any applicant being issued a permit and requests in writing that a hearing be granted thereon, the Commission, may in its discretion, grant a hearing before such applicant is awarded a permit. All of such hearings may be held either in the City of Jackson or at some other place in the State of Mississippi designated by order of the State Tax Commission.

103 All hearings conducted by the State Tax Commission in regard to any phrase of the administration of the statutes dealing with the control of alcoholic beverages under its statutory control shall only be held after minimum notice of at least ten (10) days has been given to all interested parties of the time and place of such hearing. Such notice shall be given by registered or certified mail.

104 All hearings shall be taken down either in shorthand or by tape recorder, or both, and any party aggrieved by the decision of the State Tax Commission shall have a period of thirty (30) days after the decision of the State Tax Commission within which to appeal therefrom. A copy of the decision of the State Tax Commission shall be sent by registered mail, return receipt requested, to each party applying for a permit or whose permit is sought to be cancelled and by regular mail to each party asking for a hearing thereon in writing, but the running of the time for appeal shall commence with the date of the aforesaid order and not from the date of its receipt by such interested parties.

105 Notice of appeal from any hearing shall be directed to the Chairman of the State Tax Commission.

106 All persons testifying before the Commission shall be first sworn to tell the truth by a person qualified to administer oaths under the Laws of this State.

107 The rules of evidence shall apply in all hearings before the Commission but may be relaxed by the Commission in unusual circumstances in order for the Commission to ascertain all facts in issue. Examination of witnesses shall be conducted for and on behalf of the State Tax Commission by an assistant attorney general or some person in the Legal Section of the Alcoholic Beverage Control Division of the State Tax Commission. When neither party to the hearing is represented by counsel, the aforesaid assistant attorney general or person in the Legal Section of the Alcoholic Beverage

Control Division of the State Tax Commission shall examine all parties and witnesses for the purpose of fully developing the facts in the particular proceedings, but if any party is represented by counsel, the aforesaid attorneys for the State Tax Commission shall take the position opposed to such attorneys in said hearing for the purpose of bringing all matters connected therewith to the attention of the Commission.

108 (Reserved)

Chapter 02 Appeal from Administrative Denial of Permit, Resort Area Application, Manager Application, or Employee ID Card

100 When the Commission, administratively, and without a hearing, denies a permit for sale of alcoholic beverages, or denies an application to designate a certain area as a qualified resort area, or denies a manager application, the denial of such application shall not become effective for a period of 15 days thereafter, during which time any interested person may request a full evidentiary hearing before the Commission. In the absence of such request, the initial administrative determination shall stand and the right of appeal shall be denied.

101 Hearings by the State Tax Commission, and any appeal therefore, shall be conducted pursuant to Title 35 of the Mississippi Administrative Code, Part II, Subpart 4, Chapter 1. Another application from an applicant who is aggrieved at any decision of the Commission shall not be reconsidered within a 12-month period.

102 (Reserved)

Chapter 03 Postponements, Cancellations, and Continuances of Hearings

100 Hearings may be postponed or cancelled by the Chairman of the State Tax Commission.

101 Persons requesting such postponement or cancellation are under a duty to contact the Chairman at the earliest possible time prior to the scheduled hearing.

102 (Reserved)

Subpart 05 Native Wine

Chapter 01 Qualifications for Applicants

100 No permit shall be issued for the production of native wine, whether or not least 51% of the finished product by volume shall have been obtained from fermentation of grapes, fruits, berries, honey or vegetables grown or produced in Mississippi, unless the applicant satisfies the Commission that:

1. The applicant, individual, or each member of an applicant partnership, or each of the officers, directors, and major stockholders of an applicant corporation, is of good moral character and enjoys a reputation of being a peaceable, law-abiding citizen of

the community in which he resides; is generally fit for the trust to be reposed in him; is not less than 21 years of age; and has not been convicted of a felony in any state or federal court; and

a. if the applicant is an individual, he is a resident of the State of Mississippi; and
b. if the applicant is a partnership, each member of the partnership is a resident of the State of Mississippi; and
c. if the applicant is a corporation, the designated manager is a resident of the State of Mississippi.

2. The applicant is the true and actual owner of the native wine business for which a permit is desired; intends to carry on the business for himself and not as the agent of any other persons; and intends to superintend in person the management of said business or will designate a manager to manage the business for him. Any such manager must be approved by the Commission and must possess all of the qualifications required of an applicant.
3. The place for which a native wine permit is desired is an appropriate one considering the character of the premises and the surrounding neighborhood.
4. The applicant is not indebted to the state for any taxes, fees or payment of penalties imposed by any law of the State of Mississippi or by any rule or regulation of the Commission.
5. The applicant is not in the habit of using alcoholic beverages to excess, is not physically or mentally incapacitated, and has the ability to read and write the English language.
6. The applicant will not sell or knowingly permit any agent, servant or employee to sell native wine in any manner contrary to law.
7. The applicant is not residentially domiciled with any person whose permit or license has been cancelled for causes within the 12 months next preceding the date of the application for the native wine permit.
8. The premises for which the native wine permit is sought has not previously been operated, used or frequented for any purpose or in any manner that is lewd or immoral or offensive to public decency.
9. No criminal record of the applicant or any of the applicant's employees exists, nor will the applicant knowingly hire an employee who has been convicted of a felony in any state or federal court.
10. In addition to the above and foregoing requirements each applicant for a native wine permit, as provided in Section 67-1-51, Mississippi Code of 1972, shall meet all qualifications and requirements presently set forth in the Mississippi Local Option Alcoholic Beverage Control Laws, Rules and Regulations required for permits authorized by said Section 67-1-51.

101 (Reserved)

Chapter 02 Permittees Must Comply with Federal Statutes

100 No person holding any permit issued under the provisions of this chapter shall engage in any business or activity authorized by such permit unless such person shall qualify so to do by complying with all statutes of the United States of America, and all regulations

issued pursuant thereto, which are applicable or shall pertain to such business or activity, and shall continue to be so qualified at all times while engaging in such business or activity. As a prerequisite to the issuance of any permit under this chapter, the applicant shall first obtain the required federal occupational stamp for the type of business for which the permit has been approved by the Commission.

101 (Reserved)

Chapter 03 Stamps

100 Persons holding a Class 3, Native Wine Manufacturer's (Producer's) Permit issued pursuant to Mississippi Code Annotated, Section 67-1-51, (1972), shall be required to affix a "Mississippi Native Wine Tax Stamp" to the neck or shoulder of each individual bottle or container of native wine produced, or in the alternative to have clearly imprinted on the label of each bottle the words "Mississippi Native Wine". Such stamps shall be secured from the Alcoholic Beverage Control Division.

101 (Reserved)

Chapter 04 Sanitary Codes

100 All native wines produced under permits issued under Section 67-1-51, Mississippi Code of 1972, shall be produced in accordance with the sanitary codes and production standards required by applicable federal statutes and regulations of the Bureau of Alcohol, Tobacco and Firearms and the Food and Drug Administration of the United States Government.

101 (Reserved)

Chapter 05 Three Year Qualification Period

100 A holder of a Class 3 Native Wine Manufacturer's Permit under Sections 67-1-51, Mississippi Code of 1972, shall be allowed to import such bulk and/or fortified wines into this state for use in blending with native wines without payment of any state excise tax that would otherwise accrue thereon. However, with the exception of those permittees granted a three-year qualifications period under Section 67-5-5 (a) (ii), Mississippi Code of 1972, in order to be classified as "native wine" under the provisions of the Mississippi Native Wine Law and the Local Option Alcoholic Beverage Control Law, at least fifty-one percent (51%) of the finished product by volume shall have been obtained from fermentation of grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.

101 In addition, permit holders shall make available to the Commission or its representatives all records required by the Federal Government, showing the volume of bulk and/or fortified wines imported for blending or fortifying purposes. The Commission shall satisfy itself that the volume of the wines imported does not exceed the volume the

permit holder would reasonably be expected to produce from grapes planted in his vineyard, taking into consideration that fifty-one percent (51%) of the wine must be produced from grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.

102 (Reserved)

Chapter 06 Hours of Sale

100 Native wine retailers may make sales of native wines during the same hours as that allowed for package retailers. Provided, however, the governing body of any location may petition the State Tax Commission to permit sales by native wine retailers located within their jurisdiction at other times. Upon receipt of a petition, or upon their own motion, the Commission shall consider the same and set whatever hours of sale it deems appropriate. A certified copy of the resolution of the governing authority requesting such permission must accompany all such petitions.

101 (Reserved)

Chapter 07 Locations Where Native Wines May Be Sold and Possessed

100 All native wine sales made directly to consumers by a native wine retailer, pursuant to Mississippi Code, Annotated, Section 67-5-11 and 67-1-51 (e) must be conducted at an establishment on or near the immediate vicinity of the native winery. Any such establishment must be approved by the State Tax Commission.

101 Sales of native wines made to alcoholic beverage permittees shall be conducted at the native winery or at the retail establishment.

102 Native wines may be possessed and consumed throughout the State of Mississippi. Any person purchasing, possessing or consuming said wine must be at least 21 years of age or older and not otherwise prohibited by Mississippi Code, Annotated, Section 67-1-83 (1) and (2). Native wines must, at all times, be labeled or stamped in such a manner to clearly identify the product as a Mississippi native wine.

103 (Reserved)