MISSISSIPPI LEGISLATURE REGULAR SESSION 2015

By: Representative Martinson

To: Ways and Means

HOUSE BILL NO. 1621

AN ACT TO AMEND SECTION 27-71-5, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT OF THE LICENSE TAX FOR CERTAIN PERMITS ISSUED UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW BY ELIMINATING THE ADDITIONAL TAX THAT IS CURRENTLY RETAINED BY THE STATE FOR PURCHASES EXCEEDING $5,000.00 WHILE MAINTAINING THE ADDITIONAL TAX FOR SUCH PURPOSES THAT IS PAID TO LOCAL GOVERNMENTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-71-5, Mississippi Code of 1972, is amended as follows:

27-71-5. (1) Upon each person approved for a permit under the provisions of the Alcoholic Beverage Control Law and amendments thereto, there is levied and imposed for each location for the privilege of engaging and continuing in this state in the business authorized by such permit, an annual privilege license tax in the amount provided in the following schedule:

(a) Except as otherwise provided in this subsection (1), manufacturer's permit, Class 1, distiller's and/or rectifier's.....$4,500.00

(b) Manufacturer's permit, Class 2, wine

manufacturer.....$1,800.00

(c) Manufacturer's permit, Class 3, native wine manufacturer per ten thousand (10,000) gallons or part thereof produced.....$ 10.00

(d) Native wine retailer's permit.....$ 50.00

(e) Package retailer's permit, each.....$ 900.00

(f) On-premises retailer's permit, except for clubs and common carriers, each.....$ 450.00

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(g) On-premises retailer's permit for wine of more than five percent (5%) alcohol by weight, but not more than twenty-one percent (21%) alcohol by weight, each.....$ 225.00

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(h) On-premises retailer's permit for clubs...$ 225.00

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(i) On-premises retailer's permit for common carriers, per car, plane, or other vehicle.....$ 120.00

(j) Solicitor's permit, regardless of any other provision of law, solicitor's permits shall be issued only in the discretion of the department.....$ 100.00

(k) Filing fee for each application except for an employee identification card.....$ 25.00

(l) Temporary permit, Class 1, each.....$ 10.00

(m) Temporary permit, Class 2, each.....$ 50.00

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(n) (i) Caterer's permit.....$ 600.00

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(ii) Caterer's permit for holders of on-premises retailer's permit.....$ 150.00

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(o) Research permit.....$ 100.00

(p) Temporary permit, Class 3 (wine only).....$ 10.00

(q) Special service permit.....$ 225.00

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(r) Merchant permit.....$ 225.00

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(s) Temporary wine charitable auction permit.....$ 10.00

(t) Event venue retailer's permit.....$ 225.00

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If a person approved for a manufacturer's permit, Class 1, distiller's permit produces a product with at least fifty-one percent (51%) of the finished product by volume being obtained from alcoholic fermentation of grapes, fruits, berries, honey and/or vegetables grown and produced in Mississippi, and produces all of the product by using not more than one (1) still having a maximum capacity of one hundred fifty (150) liters, the annual privilege license tax for such a permit shall be Ten Dollars ($10.00) per ten thousand (10,000) gallons or part thereof produced. Bulk, concentrated or fortified ingredients used for

blending may be produced outside this state and used in producing such a product.

In addition to the filing fee imposed by paragraph (k) of this subsection, a fee to be determined by the Department of Revenue may be charged to defray costs incurred to process applications. The additional fees shall be paid into the State Treasury to the credit of a special fund account, which is hereby created, and expenditures therefrom shall be made only to defray the costs incurred by the Department of Revenue in processing alcoholic beverage applications. Any unencumbered balance remaining in the special fund account on June 30 of any fiscal year shall lapse into the State General Fund.

All privilege taxes imposed by this section shall be paid in advance of doing business. The additional privilege tax imposed for an on-premises retailer's permit based upon purchases shall be due and payable on demand.

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(2) (a) There is imposed and shall be collected from each permittee, except a common carrier, solicitor or a temporary permittee, by the department, an additional license tax equal to the amounts imposed under subsection (1) of this section for the privilege of doing business within any municipality or county in which the licensee is located.

(b) (i) In addition to the tax imposed in paragraph (a) of this subsection, there is imposed and shall be collected by

the department from each permittee described in subsection (1)(f), (g), (h), (m) and (t) of this section, an additional license tax for the privilege of doing business within any municipality or county in which the licensee is located in the amount of Two Hundred Twenty-five Dollars ($225.00) on purchases exceeding Five Thousand Dollars ($5,000.00) and Two Hundred Twenty—five Dollars ($225.00) for each additional purchase of Five Thousand Dollars ($5,000.00), or fraction thereof.

(ii) In addition to the tax imposed in paragraph (a) of this subsection, there is imposed and shall be collected by the department from each permittee described in subsection (1)(n) and (r) of this section, an additional license tax for the privilege of doing business within any municipality or county in which the licensee is located in the amount of Two Hundred Fifty Dollars ($250.00) on purchases exceeding Five Thousand Dollars ($5,000.00) and Two Hundred Twenty—five Dollars ($225.00) for each additional purchase of Five Thousand Dollars ($5,000.00), or fraction thereof.

(iii) Any person who has paid the additional privilege license tax imposed by this paragraph, and whose permit is renewed, may add any unused fraction of Five Thousand Dollars ($5,000.00) purchases to the first Five Thousand Dollars ($5,000.00) purchases authorized by the renewal permit, and no additional license tax will be required until purchases exceed the sum of the two (2) figures.

(c) If the licensee is located within a municipality, the department shall pay the amount of additional license tax collected under this section to the municipality, and if outside a municipality the department shall pay the additional license tax to the county in which the licensee is located. Payments by the department to the respective local government subdivisions shall be made once each month for any collections during the preceding month.

(3) When an application for any permit, other than for renewal of a permit, has been rejected by the department, such decision shall be final. Appeal may be made in the manner provided by Section 67-1-39. Another application from an applicant who has been denied a permit shall not be reconsidered within a twelve-month period.

(4) The number of permits issued by the department shall not be restricted or limited on a population basis; however, the foregoing limitation shall not be construed to preclude the right of the department to refuse to issue a permit because of the undesirability of the proposed location.

(5) If any person shall engage or continue in any business which is taxable under this section without having paid the tax as provided in this section, the person shall be liable for the full amount of the tax plus a penalty thereon equal to the amount thereof, and, in addition, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment in the

county jail for a term of not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

(6) It shall be unlawful for any person to consume alcoholic beverages on the premises of any hotel restaurant, restaurant, club or the interior of any public place defined in Chapter 1, Title 67, Mississippi Code of 1972, when the owner or manager thereof displays in several conspicuous places inside the establishment and at the entrances of establishment a sign containing the following language: NO ALCOHOLIC BEVERAGES ALLOWED.

SECTION 2. This act shall take effect and be in force from and after July 1, 2015.