

## **Title 35 Department of Revenue**

### **Part II Alcoholic Beverage Control**

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## **Subpart 01 General and Administrative**

### **Chapter 01 Definitions**

#### 100 Definitions

When used in Title 35, Part II of the Mississippi Administrative Code:

1. “Alcoholic beverage” means any alcoholic liquid, including distilled spirits, as defined by Miss. Code Ann. Section 67-1-5, of more than 6% alcohol by weight, and native wines and wine, as defined by Miss. Code Ann. Section 67-1-5, of more than 5% alcohol by weight, capable of being consumed by a human being. The term does not include light wines, light spirit products, and beer, as defined by Miss. Code Ann. Section 67-3-3.
2. “Bailment warehouse” is a warehousing method whereby alcoholic beverages owned by the vendor are stored in the Liquor Distribution Center (LDC) for subsequent purchase by the Department and shipment to retail permittees.
3. “Board of Tax Appeals” means the three-member appeal body as legally constituted and authorized by statute.
4. “Chief of Enforcement” means the head of the Alcoholic Beverage Control Division Enforcement Section or his designee.
5. “Commissioner” means the Commissioner of the Department of Revenue or his designee.
6. “Department” or “Department of Revenue” means the various offices, bureaus, and divisions of the Mississippi Department of Revenue that incorporate the functional duties and responsibilities of the Commissioner as authorized by law.
7. “Director” means the Office Director of the Alcoholic Beverage Control Division or his designee.
8. “Division” means the Alcoholic Beverage Control Division of the Department of Revenue and shall include its director, enforcement personnel and all other employees.
9. “Executive Director” means the Executive Director of the Board of Tax Appeals.
10. “NABCA” means the National Alcohol Beverage Control Association.
11. “On-premise retailer permittee” means any person issued a permit authorizing the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only pursuant to Miss. Code Ann. Section 67-1-51(1)(c).
12. “Package retailer permittee” means any person issued a permit authorizing such person to operate a store exclusively for the retail sale of sealed and unopened alcoholic beverages pursuant to Miss. Code Ann. Section 67-1-51(1)(b).
13. “Permit” means any of the permits issued by the Department pursuant to Miss. Code Ann. Section 67-1-51.

#### 101 (Reserved)

*35.II.1.01 revised effective July 28, 2021*

### **Chapter 02 Administrative Provisions**

- 100 The Alcoholic Beverage Control Division is hereby empowered, authorized, and directed to carry out fully the provisions of Miss. Code Ann. Title 67 and these regulations.
- 101 It is the intent of the Department that each and every one of these regulations, and parts thereof, are independent from the other; that each could stand alone; and to this end the provisions of these regulations, and parts thereof, are severable.
- 102 All records of any person holding a permit issued pursuant to Miss. Code Ann. Section 67-1-51 shall be open for examination at any time by the Department or its duly authorized agents.
- 103 (Reserved)

### **Chapter 03 Appeal Procedures**

- 100 Pursuant to Miss. Code Ann. Section 67-1-72, certain decisions of the Department may be appealed. Any request for such appeal shall be made to the Board of Tax Appeals.
- 101 The following decisions of the Department may be appealed:
1. Denial of an application
  2. Denial of a permit renewal
  3. Revocation of a permit
  4. Suspension of a permit
  5. Denial of an applicant for approved manager
  6. Revocation or suspension of approved manager designation
  7. Denial of a request for qualified resort area status
  8. Revocation of a qualified resort area status
- 102 The procedures for filing an appeal shall be:
1. The aggrieved person must submit a request for appeal in writing;
  2. The request must be submitted to the Executive Director of the Board of Tax Appeals and a copy must be sent to the Department; and
  3. The request must be made within fifteen (15) days of the date the person received notice from the Department.
- 103 If the aggrieved person fails to appeal within the fifteen (15) day period, the action of the Department shall take effect as set out in the notice.
- 104 The Department retains the authority to change its decision.
- 105 If the decision of the Department is due to an incomplete application, failure of the applicant to pay the annual privilege taxes and fees pursuant to Miss. Code Ann. Section 27-71-5 or failure of the applicant to post the required bond, then the decision of the Department does not constitute a denial and may not be appealed.
- 106 No permit shall be suspended or revoked until the permittee has been given reasonable

- notice of the reason for suspension or revocation. The permittee shall be given the opportunity to appeal the suspension or revocation to the Board of Tax Appeals.
- 107 The permittee may waive his rights to reasonable notice and/or the opportunity to a hearing by agreeing to a suspension or revocation as offered by the Department.
- 108 If an applicant fails to timely request a hearing after notification of the request for suspension or revocation, the applicant is considered to have had an opportunity for a hearing.
- 109 (Reserved)
- 200 If an application for renewal of a permit has been denied by the Department for any reason other than incompleteness, failure to pay applicable privilege taxes and fees or failure to post any required bond, the permittee may continue to operate under the permit until the last of the following dates:
1. The date on which the permit expires;
  2. The date on which the time period for filing an appeal of the denial to the Board of Tax Appeals expires;
  3. The date of withdrawal of a timely filed appeal to the Board of Tax Appeals; or
  4. The date on which the permittee receives the notice of the Board of Tax Appeals affirming the denial of the permit renewal.
- 201 If the Board of Tax Appeals reverses the Department's decision to deny the renewal, the Department shall renew the permit and issue the permit from its last expiration date.
- 202 The Department has the authority to appeal the decision of the Board of Tax Appeals to chancery court pursuant to Miss. Code Ann. Section 67-1-39. If the court enters a final decision and/or order reversing the decision of the Board and affirms the denial of renewal of the permit, the permit shall be deemed denied and the permittee is not authorized to sell alcoholic beverages under that permit after the date the court decision becomes final and is not subject to any further appeal.
- 203 (Reserved)
- 300 Any applicant that is aggrieved by the Department's denial, revocation or suspension of approved manager designation may appeal the decision of the Department. Such appeal is to be made to the Board of Tax Appeals following the procedures provided in Paragraph 102 of this Chapter.
- 301 Any applicant or holder of an approved manager designation may waive his rights to notice and opportunity to a hearing by agreeing to the action taken by the Department.
- 302 (Reserved)
- 400 The Department has the authority to approve or deny applications for qualified resort

status as well as to revoke a current qualified resort status. Appeals for issues related to qualified resort status may be made by the applicant or permit holder; the county or municipality where the qualified resort status is located; or by any person objecting to the qualified resort area.

- 401 The Department has the discretion to publish notice of its decision to revoke approval of a qualified resort area in the same manner as provided in Title 35, Part II, Subpart 03, Chapter 07 of the Mississippi Administrative Code as it relates to approval of a qualified resort area. The fifteen (15) day period for appeals will begin on the date the notice is first published. If an appeal is not filed within this fifteen (15) day period, the decision of the Department is final.
- 402 Any county or municipality where a proposed qualified resort area is to be located or where a qualified resort area is currently located may appeal the decision of the Department to deny the request for approval or the revocation of the resort areas status. Such appeal shall be made to the Board of Tax Appeals and shall follow the procedures provided in Paragraph 102 of this Chapter.
- 403 (Reserved)
- 500 Any other person may also request a hearing before the Board of Tax Appeals related to:
1. Objections to an application for a qualified resort status;
  2. Objections to the transfer of an existing permit; or
  3. Objections to the issuance of any permit with the exception of a temporary retailer's permit.
- 501 There will be no hearing in cases where the application is denied by the Department and the applicant does not appeal the Department's decision or if the applicant withdraws the application; or if the county or municipality where the proposed qualified resort area is located does not appeal the Department's decision.
- 502 If the Department denies the application, then the procedures found in this chapter for appeal of a denial of an application shall be in effect. The Department will advise the Executive Director and the applicant of any objection to the application and the Board of Tax Appeals shall schedule a hearing on the objection and a hearing on the appeal at the same time.
- 503 If the Department approves the application, then the Department will advise the applicant and the Executive Director of the request for a hearing on an objection to the application. The Board of Tax Appeals shall schedule a hearing on the objection.
- 504 The Department has the authority to approve the application if the person objecting to the application withdraws the request for hearing.
- 505 A request for a hearing on the objection must be filed with the Department within fifteen (15) days from the first date of publication of the notice of application pursuant to Miss.

Code Ann. Section 67-1-53.

506 (Reserved)

600 Any person who has an interest in any alcoholic beverages or raw materials which the Department intends to dispose of under Miss. Code Ann. Section 67-1-18 shall be given a reasonable notice of the Department's proposed disposal. Such person may request a hearing before the Board of Tax Appeals to establish a right or claim to the property.

601 Request for an appeal shall follow the same procedures set out in paragraph 102 of this Chapter.

602 If a request is not received within the fifteen (15) day period, then the Department may order the property to be disposed of pursuant to Miss. Code Ann. Section 67-1-18.

603 (Reserved)

*35.II.01.03 revised effective April 1, 2018.*

## **Subpart 02 Enforcement**

### **Chapter 01 Violations**

100 The Department may revoke or suspend any permit issued for a violation by the permittee or an agent or employee of the permittee of any provisions of the Local Option law or of any of the regulations promulgated by the Department. In taking such action the Department may consider prior offenses committed by the permittee and/or its agents or employees within a period of two (2) years from the date of the most recent offense.

101 Any person, firm, association, corporation, LLC, hotel, restaurant, or club defined in the Local Option law that violates the law, or knowingly permits the violation of the law upon its premises, may be subject to a revocation of their permit. When a permit is revoked the entity shall not be eligible to obtain any permit provided by Miss. Code Ann. Section 67-1-51 for a period of twelve (12) months after the date the revocation becomes final. Any "applicant" as defined by Miss. Code Ann. Section 67-1-59 for any such person or entity shall be ineligible to obtain a permit either as an individual or as an "applicant" for another entity should he or she commit or knowingly allow such permit violations. The "applicant" shall remain ineligible to obtain a permit for twelve (12) months from the date the revocation becomes final. This twelve (12) month prohibition shall not apply to those persons or entities whose permits are revoked due to their failure to maintain the qualification of paying all debts to the State, be it taxes or fees. Such entities are eligible to apply for a permit after paying the underlying outstanding debt.

102 In addition to suspension or revocation of permits, the Department may impose fines not to exceed one thousand dollars (\$1,000.00) upon any person or entity for violations of the regulations promulgated by the Department. Failure of a permittee to pay fines within a time designated by the Department will result in revocation of the permit. Failure of a

manufacturer representative to pay fines may result in the suspension of the representative's products from sale in the State.

103 (Reserved)

*35.II.2.01 revised effective December 1, 2018*

## **Chapter 02 Advertising and Promotions**

- 100 No person, firm or corporation shall advertise in dry counties, municipalities, or judicial districts of this State for alcoholic beverages by signs, billboards, or displays. Notwithstanding the foregoing, alcoholic beverages may be advertised in the following areas even if located in a dry county:
1. municipalities that meet the definition of “resort” as defined by Miss. Code Ann. Section 67-1-5(o)(iii);
  2. on and immediately outside the premises of any permittee within a resort area as defined by Miss. Code Ann. Section 67-1-5(o)(iii) if the entire municipality or county is not wet for alcoholic beverages; or
  3. in municipalities that have voted to be wet for alcoholic beverages.
- 101 All alcoholic beverage advertising, and any industry related promotions such as contests and sweepstakes shall adhere to applicable statutes and rules. A retailer and its employees may not participate in a contest or sweepstakes in any way. For example, the contest or sweepstakes may not mention a specific retailer, the retailer cannot offer point of sale materials advertising the contest or sweepstakes, the drawing may not be held on a retail premises and the prize(s) may not be given away on a retail premises.
- 102 For purposes of this regulation, a contest or sweepstake shall not include any giveaways that require the purchase of chances to win or purchase of an item for a chance to enter. Such giveaways could be considered an illegal raffle and result in disciplinary action.

*35.II.2.02 revised effective June 2, 2022*

## **Chapter 3 Permitted Premises Where Alcoholic Beverages Are Sold**

- 100 The minimum distances provided in Miss. Code Ann. Section 67-1-51(3), 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 Commissioner. 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 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 Commissioner 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 Commissioner 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 Commissioner will make exceptions to this rule.
- 106 Surplus stock must be stored in the same building where the retail business is 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 Except as stated herein, all sales of alcoholic beverages shall be made inside the permitted premises. If the Governor of the State of Mississippi has declared a State of Emergency or the Commissioner otherwise determines it is in the best interest of the State to do so, permitted sales for package retailers may include orders and payment through the telephone or electronically through the internet, with curbside pickup for customers in the parking lot of the package retailers. The Department will issue a public announcement if curbside service is authorized.

- 109 Under very limited circumstances, a permittee may request a waiver from the Chief of Enforcement 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 Chief of Enforcement. A request for a waiver must meet the following requirements:
1. The permittee must demonstrate that the additional storage is required as the result of an unforeseen circumstance and is temporary in nature.
  2. The off-site storage location must meet all distance requirements of Miss. Code Ann. 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 Department. However, the off-site location shall not be considered part of licensed premises for purposes of the sale of alcoholic beverages. The site may only be used for the safe and secure storage of alcoholic beverages.
  3. 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 Chief of Enforcement 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. The location is subject to inspection by ABC.
  4. The exclusive use of the off-premises location must be storage of surplus alcoholic beverage inventory and items authorized for sale by Miss. Admin. Code Title 35.II.2.23. There shall be no other use of the off-site storage location.
  5. 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.
- 110 In addition to the above, the Chief of Enforcement 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 Department. The Department may revoke a waiver for an off-site storage location at any time. The permittee will be notified of the revocation in writing.
- 111 On-premises permits may be issued to qualified hotels, restaurants, clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, in addition to those types of businesses listed in the preceding sentence, on-premises permits may be issued to businesses that operate solely as bars or permitted casinos or as otherwise authorized by statute.
- 112 (Reserved)
- 200 Restaurants

- 201 To qualify as a “restaurant” under Miss. Code Ann. Section 67-1-5(m), the premises must have and maintain the following minimum kitchen requirements. All equipment must meet applicable standards as required by the Mississippi State Department of Health and as listed in the FDA Food Code. Menus must be readily available and visible to customers along with the dining hours of operation. Dining hours must be adequate to meet the requirements based on the business's individual food service plan.
1. A menu that contains at least five (5) separate entrees. Food items must be prepared in whole or in part on the premises. Food items that are merely heated and served or “ready-to-eat” without further preparation do not meet this requirement. Specialty or theme restaurants that specialize in one entrée line may be exempted from this requirement so long as the entree line contains an acceptable number of theme or specialty entrée variations.
  2. At a minimum, a Risk Category 2 Permit issued by the Mississippi State Department of Health. Proof of the Permit is required for the initial application and all subsequent renewals.
  3. Employ at least one (1) employee with management or supervisory responsibility certified as a “food manager”, or an equivalent position, by an educational program recognized by the Mississippi Department of Health.
  4. A kitchen that contains the following functional equipment:
    - a. Oven and stove top (can be one complete unit);
    - b. Cold storage areas (i.e., a refrigerator and freezer, either separate or combined);
    - c. Ventilation hood that meets applicable requirements under Mississippi State Department of Health regulations and city and/or local ordinances;
    - d. Adequate food preparation areas and countertop space;
    - e. Mop sink;
    - f. Three-compartment sink; and
    - g. Separate hand-washing facilities for employees.
- 202 At least 25% of the revenue a restaurant permittee receives must be derived from the preparation, cooking and serving of meals or, if food is given to and consumed by customers at no charge, the value of the food must be equal to 25% or more of total revenue.
- 203 “Meals” shall mean food and non-alcoholic drinks. It shall not include alcoholic beverages, beer or light wine and non-alcoholic beverages used in the preparation of mixed alcoholic drinks.
- 204 Restaurants may meet the 25% requirement using one of two options. Permit holders may not combine the below options, and must maintain either option exclusively for the permit year for purposes of determining whether 25% requirements are met.
1. If the permittee chooses to meet the 25% requirement through the sale of meals, the amount of funds derived from the sale of meals prior to any accounting adjustments by the permit holder must be 25% or more of total gross revenue when compared to gross revenue derived from the sale of food and beverages. The permittee shall calculate this figure by adding the gross revenue derived from the sale of beer, light wine, alcoholic

beverages and meals and then determine the percentage amount from this total figure that is derived from the sale of meals as defined above.

2. If the permittee chooses to meet the 25% requirement through the giving away of food for consumption by customers, the value of the food must be equal to or more than 25% of total gross revenue derived from the total sale of food and beverages. "Value of food" is the cost of the food and non-alcoholic drinks purchased and given in a complimentary manner to customers, plus a reasonable mark-up not to exceed 300%. Such cost shall not include non-alcoholic beverages used in the preparation of mixed alcoholic drinks. The permittee should calculate this figure by adding the gross revenue derived from the sale of beer, light wine and alcoholic beverages to the value of food given to customers in a complimentary manner. The permittee should then determine the percentage amount of this figure that is derived from the sale of food.

205 (Reserved)

*35.II.02.03 Revised effective November 15, 2023*

#### **Chapter 04 Hours and Days During Which Alcoholic Beverages May Be Sold by On-Premises Permittees, Package Stores and Caterers**

- 100 On-premises permittees and caterers may make sales of alcoholic beverages at the permitted location between the hours of 10:00 a.m. and midnight, Monday through Saturday. No sales or deliveries of alcoholic beverages shall be made to any person on Sundays unless hours have been extended as described below.
- 101 On New Year's Eve, on-premises permittees and caterers 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 caterers may make sales of alcoholic beverages at the permitted location between the hours of 1:00 p.m. and 1:00 a.m. In the event that a municipality or county prefers not to recognize the extension of hours on New Year's Eve, the municipality or county shall notify the Chief of Enforcement, in writing, no later than September 1st of that year.
- 102 The governing authority of any municipality or county, usually the Board of Alderman or Board of Supervisors, may petition the Department to shorten or extend the hours of sale and/or consumption of alcoholic beverages by on-premises permittees and caterers located in the municipality or county. The petition must be accompanied by a certified copy of the order of the municipal or county governing authority requesting the change in hours. Regardless of the date of request, any change in hours will not be effective until approved by the Department. Unless otherwise designated by the Department, the hours for sale and consumption shall be the same.
- 103 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 authority of any municipality or county may petition the Department to designate the

hours of sale and/or consumption of alcoholic beverages for resort area on-premises permittees or caterers. All petitions must be accompanied by a certified copy of the resolution of the municipal or county governing authority requesting the setting of hours. Upon receipt of the petition, or upon its own discretion, the Department shall set whatever hours of sale and/or consumption it deems appropriate for any particular resort area. Additionally, governing authorities within resort areas may set hours for sale by ordinance if authorized to do so under Miss. Code Section 67-1-5(o)(iii). Governing authorities should forward a copy of any such ordinance to ABC upon passage. Unless otherwise designated by the Department, the hours for sale and consumption shall be the same.

104 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.

105 (Reserved)

*35.II.2.04 revised effective July 28, 2021*

## **Chapter 05**

### **Purchase and Sale of Distilled Alcoholic Beverages by On-Premises Permittees**

100 All sales of alcoholic beverages by on-premises permitted places of business shall be made by the drink, EXCEPT

1. Bottles of distilled alcoholic beverages may be sold as follows:

- a. 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; and
- b. 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 the club member's name that purchases the bottle.

2. Wine and champagne may be sold by any on-premises permittee by the bottle for consumption exclusively in the permitted place.

3. A patron may remove one bottle of wine from the permitted premises into a wet area when:

- a. The patron consumed a portion of the bottle of wine in the course of a meal purchased on the licensed premises;
- b. The permittee securely reseals the bottle;
- c. The bottle is placed in a bag that is secured in a way as to be visibly apparent when the bag is opened; and
- d. A dated receipt for the purchase of the wine and meal is available.

101 All sales of alcoholic beverages by on-premises permittees shall be for consumption in the licensed premises only, unless otherwise expressly authorized by law or regulation. 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 Department 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 Department is satisfied that the permittee is the actual owner of the entire premises and that there is sufficient controlled access to the premises.

- 102 An on-premises permittee may request to temporarily increase or decrease the area designated in its floor plan as its licensed premises by filing a written request with the Chief of Enforcement at least 10 days prior to the desired temporary change. Regardless of whether the area is decreased or increased, the on-premises permittee will remain responsible for maintaining all ABC requirements on its temporarily decreased or increased premises. For a proposed increase, the request must clearly show the boundaries of the newly expanded floor plan. For a proposed decrease, the request must clearly show the portion of the existing floor plan that will temporarily no longer be under the on-premises permittee's control and state the duration of the temporary decrease. A temporary decrease in a premises will only be granted if done to allow an unaffiliated holder of a Class I temporary permit to sell and distribute alcoholic beverages within the portion of the area temporarily no longer under the on-premises permittee's control. For both a decrease and an increase, the request must state the dates that the requested decrease or increase will be in effect.
- 103 A permittee must maintain sufficient control over its premises to prohibit patrons from entering or leaving the permitted premises with alcoholic beverages except as authorized by law or regulation. In instances where a fence, rope, barrier or gate is used to prohibit exit or entrance onto the premises, such fence, rope, barrier, or gate must be a height of at least three (3) feet from the ground.
- 104 If the permitted premises is located within a Leisure Recreation District, the on-premises permittee may allow patrons to leave its premises with alcoholic beverages as provided by applicable statutes dealing with Leisure Recreation Districts. Further, an on-premises permittee may allow its patrons to remove a bottle of wine into a wet area from its permitted premises as provided by Section 100 above.
- 105 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 and/or consumed, as set forth in Title 35, Part II, Subpart 02 Chapter 4 of the Mississippi Administrative Code. However, alcoholic beverages may 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 with prior written approval from the Department. 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 Chief of Enforcement by the permittee two weeks prior to the Christmas party or lease agreement. Christmas parties are restricted to permittee, employees and their guest. No requests will be

approved unless the permittee is in compliance with all rules and regulations of the Department.

- 106 No on-premises permittee shall allow alcoholic beverages to be brown-bagged by a consumer/customer on the permitted premises. However, this restriction does not apply to privately leased banquet rooms or privately leased hospitality suites. If a private banquet room or hospitality suite is leased to an individual and said individual desires to bring his own alcoholic beverages (brown-bagging), the permittee is strictly prohibited from providing or serving alcoholic beverage inside the lease area. On Sundays, when the Department specifically authorizes consumption as described above, 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 or hospitality suite after the expiration of the lease shall be destroyed by the permittee.
- 107 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.
- 108 No permittee may refill any alcoholic beverage container with an alcoholic beverage.
- 109 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.
- 110 (Reserved)

*35.II.2.05 revised effective January 12, 2022*

## **Chapter 06 Retailers Records**

- 100 It is the duty of every retailer of alcoholic beverages to keep and preserve for a period of three (3) years adequate records of the sales of the business. This includes sales of food, beer, and alcoholic beverages, as well as any other items sold, admission fees, cover charges, and any other revenue. Restaurants shall keep records of sales in four (4) separate categories: food, beer, alcoholic beverages, and all other sales.
- 101 The retailer shall also keep itemized invoices for all merchandise purchased (and whether procured from local or other retail or wholesale outlets), all bank statements and cancelled checks, and all other books or accounts as may be necessary to determine the financial position of the business. All itemized purchase invoices and tickets shall bear the items purchased, date of purchase, name of the seller and purchaser. Cash register tapes may not be used in lieu of itemized invoices for record purposes.
- 102 All required records shall be adequate in substance to conform with generally accepted accounting practices and all records shall be written in the English language. All records shall be open for examination at any time by the Department.

- 103 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 revocation of its alcoholic beverage permit.
- 104 Restaurants located within a Qualified Resort Area are exempt from the food sale requirement as provided by Miss. Code Ann. 67-1-5 but must maintain itemized records as any other restaurant permittee.
- 105 (Reserved)

*35.II.2.06 revised effective December 1, 2018*

## **Chapter 07 Prohibited Conduct and Activities**

- 100 No person holding an alcoholic beverage on-premises permit, and no agent, associate, employee, representative, promoter, entertainer or servant of any such permittee shall do, permit, or fail to stop 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 or pay persons to solicit patrons for drinks, to accept drinks from patrons and receive a commission or any other remuneration 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, promoter, 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.
  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 female dancers; 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 contests or exhibitions involving the use of lingerie or similar attire. This prohibition shall not apply to contests and exhibitions involving the use of swim wear that (1) do not otherwise violate the regulations included herein; and (2) have been pre-approved in writing by the Commissioner or his delegatee on a per-event basis. Failure to obtain such preapproval may result in suspension or revocation of the permit.
- 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 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.
  - e. Paragraph 7 shall not apply to any theatrical performance which, when considered as a whole and in the context that it is used, expresses matters of serious literary, artistic, scientific or political value and is:
    - i. Held at a theater, concert hall, art center, or museum, and is held out to the public as predominately offering and which does predominately offer such performances;
    - ii. Does not violate any other portion of Miss. Admin. Code Title 35, Part II, Subpart 2; and
    - iii. Is not in violation of federal law regarding pornography, indecency or obscenity.
- 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 the permittee or their manager is present or not. The Department may revoke or suspend the license of any permittee for the violation of any of the provisions of this chapter. Any questions regarding the permissibility of activities or conduct governed by this regulation should be submitted, in writing, to the Chief of Enforcement prior to the activities or conduct occurring.
- 102 Permittees shall be accountable for any criminal or regulatory employee misconduct which occurs on any part of the licensed premises whether the permittee or their manager is present or not. Such misconduct may result in suspension or revocation of the permit.
- 103 Permittees shall be accountable for any criminal or regulatory non-employee misconduct when the Department finds that the permittee or the permittee's employees knew or should have known about the non-employee misconduct and allowed, permitted or suffered the misconduct to occur or continue. . Such misconduct may result in suspension or revocation of the permit.
- 104 If a permittee or a permittee's clerk, agent or employee is convicted of selling alcoholic beverages to a minor, the subject permit shall be suspended or revoked based on the schedule of disciplinary actions under Miss. Code Section 67-1-81(1)(b).
- 105 (Reserved)

*35.II.2.07 revised effective March 8, 2021*

## **Chapter 08 Employment of Persons Under Age 21**

- 100 A package retailer permittee may employ any person under the age of twenty-one (21) years to unload alcoholic beverages while the product is in sealed cartons, boxes, or similar sealed shipping packages. However, a package retailer permittee may not employ any person under the age of twenty-one (21) years to otherwise sell or handle alcoholic beverages.
- 101 An on-premises permittee may employ a person who is at least eighteen (18) years of age to take orders for or deliver orders of alcoholic beverages while waiting on tables. This activity shall not be deemed to constitute an unlawful possession or furnishing of alcoholic beverages if such activities are in the scope of his or her employment by the on-premises permittee. 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)

*35.II.2.08 revised effective March 15, 2019*

## **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 law. Notwithstanding the foregoing, salted wines that contain twenty-one percent (21%) alcohol by volume or less and 1.5 grams of salt per 100 cubic centimeters or more are not considered capable of being consumed as a beverage by a human being. Therefore, such salted wines, commonly referred to as, "cooking wines" are exempt from the provisions of the Local Option law.

101 (Reserved)

*35.II.2.09 revised effective March 15, 2019*

## **Chapter 10 Restriction on Interests of Division Employees**

100 No officer, agent or employee assigned to the Division shall hold any interest in any business engaged in the manufacture, distillation, importation, rectifying, or selling of alcoholic beverages; nor shall such person receive any compensation or profit from such business.

101 (Reserved)

*35.II.2.10 revised effective March 15, 2019*

## **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 Division 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 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 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 Division. Such employees may represent more than one manufacturer.

- 102 The manufacturer 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 Division.
- 103 A manufacturer's registered representative may not distribute alcoholic beverages unless specifically authorized within these regulations. Representatives are prohibited from pouring alcoholic beverages at sponsored events, regardless of whether the manufacturer is a sponsor of the event. Representatives are authorized to pour alcoholic beverages at trade shows hosted by the manufacturer.
- 104 A manufacturer's registered representative has a duty to report any unlawful activity which violates Local Option Laws or regulations seen on a permitted premises to the Division.
- 105 The registration of a manufacturer's representative and his employees may be suspended and the manufacturer's products may be delisted by the Division and/or a civil penalty not to exceed \$1,000.00 may be imposed at the direction of the Department if it shall appear to the satisfaction of the Department that the law or the policies and/or regulations of the Division have been violated by the manufacturer, the manufacturer's registered representative, or any employee of the manufacturer working in the state.
- 106 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 the Division solicits special orders only for its product inventory.
- 107 A distiller's, distributor's, rectifier's, or importer's representative or employee shall be recognized under the same conditions established in this regulation for a manufacturer's representative.
- 108 (Reserved)

*35.II.2.11 revised effective May 1, 2019*

## **Chapter 12 Tied House, Gifts, Gratuities, and Inducements**

- 100 Definitions
- 101 "Advertising specialties" are items that are designed to be carried away by consumers, such as bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, leaflets, pens, shirts, caps and visors. The Holder may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

- 102 “Holder” refers to holders of manufacturer's or wholesaler's permits, or anyone connected with the business of such holder, or any other distiller, rectifier, blender or bottler of alcoholic beverages.
- 103 “Loyalty cards, discount cards, or membership cards” means a card that is issued by a retail permittee to customers that, upon presentation to the retail permittee, provides for the purchaser to receive a loyalty card, discount card, membership card, or coupon discount on a portion of the amount paid by the purchaser for purchases of alcoholic beverages at the time of sale.
- 104 “Nominal Value” 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 Alcohol and Tobacco Tax and Trade Bureau.
- 105 “Point of sale advertising materials” are items designed to be used within a retail establishment to attract consumer attention to the product of the Holder. Such items include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars and alcoholic beverage lists or menus. The Holder may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.
- 106 “Product displays” means any wine racks, bins, barrels, casks, shelving, or similar items the primary function of which is to hold and display consumer products.
- 107 (Reserved)
- 200 Pursuant to Miss. Code Ann. Section 67-1-77(2), no Holder shall make an offer of gifts, gratuities, or inducements of any kind whatsoever to any alcoholic beverage 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 provided below. A Holder may give or sell product displays to alcoholic beverage retailers so long as the total value of all such displays to the retailer does not exceed \$300 per brand at any one time in any one retail establishment. The value of the product display is the actual cost to the Holder who initially purchased it. Transportation and installation costs are excluded.
- 201 A Holder may furnish the following to an alcoholic beverage retailer: inside signs, educational seminars, product displays, point of sale advertising materials, and advertising specialties, so long as the value of such items do not to exceed the applicable Nominal Value.
- 202 A Holder may furnish equipment and/or supplies to an alcoholic beverage retailer so long as such equipment or supplies are sold at a price not less than the cost to the Holder who initially purchased them, and if the price is collected within 30 days of the date of sale.

- 203 Educational seminars, trade shows or tasting events for licensed retailers sponsored by any employee or registered agent of any Holder, are permissible at licensed on-premise establishments, establishments holding any temporary permit, 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. A Holder's representatives may transport and provide alcoholic beverages for tasting and exhibition at any convention sponsored by an alcoholic retailer association convention as long as the alcoholic beverages were previously purchased from a licensed retailer in this state. Offers of samples of new products that are not available through a licensed retailer must follow the procedures for samples found in Title 35, Part II, Subpart 2, Chapter 13 of the Mississippi Administrative Code. Consumption of alcoholic beverages at all seminars, trade shows and tasting events is limited to the hours of consumption set forth in Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code.
- 204 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 temporary permit, with the permittee exclusively furnishing the alcoholic beverages.
- 205 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 permit or a temporary permit shall not distribute alcoholic beverages for tasting purposes or any other purpose.
- 206 The preceding paragraphs do not authorize a manufacturer, distiller, or wholesaler to pay an alcoholic beverage retailer's travel and/or lodging expenses in conjunction with an educational seminar.
- 207 Except as stated in these regulations, alcoholic beverage samples, coupons, rebates or other inducements, which require proof of purchase, to anyone, are strictly prohibited.
- 208 A Holder or its promotional representative may furnish to off-premises retailers rebates or coupons that are redeemable either via mail or on-line by the Holder. A retailer may not redeem such rebates. The mail-in or on-line rebate must be accompanied by a proof of purchase. The permittee may not accept any rebate or coupon at the point of sale as full or partial payment for any product offered for sale.
- 209 A permittee owning an establishment selling alcoholic beverages for off-premises consumptions may use loyalty cards, discount cards or memberships cards in conjunction with its retail establishment.

- 210 Permittees may advertise discounts and coupons with the requirement of the use of the permittee's loyalty card, discount card or membership card in the following circumstances:
1. The permittee shall require customers to present a loyalty card, discount card or membership card to receive the advertised loyalty card, discount card or membership card discount when purchasing an alcoholic beverage or approved product sold at the permittee's retail location for off-premises consumption;
  2. No loyalty card, discount card or membership card shall be honored for the purchase of alcohol for any individual below the legal age for purchase of alcohol;
  3. A loyalty card, discount card or membership card shall not provide a discount exceeding 25 percent of the advertised retail price of the item; and
  4. Direct or indirect cooperation shall not occur between a retailer and a holder or holder's representative in either marketing, redemption or funding of coupons, rebates or loyalty card, discount card or membership card discounts.
- 211 Nothing in this regulation is intended to prohibit the type of activity permitted by Title 35, Part II, Subpart 2, Chapter 13 (Samples of Alcoholic Beverages); and Subpart 4, Chapter 9 (Dual Packaging) of the Mississippi Administrative Code.
- 212 (Reserved)

*35.II.2.12 revised effective June 2, 2022*

### **Chapter 13 Samples of Alcoholic Beverages**

- 100 A manufacturer's representative and its employees, as described in Title 35, Part II, Subpart 2, Chapter 11 of the Mississippi Administrative Code, may furnish one sample of a new product to any permitted 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 be clearly labeled with the word "SAMPLE".
- 103 Products used for sampling may either (1) be delivered to the LDC Warehouse for distribution to the manufacturer's representative or, (2) if used by the representative for an on-premises permittee, may also be purchased by a manufacturer's representative from a package retailer permittee. If option (1) is utilized for sample use, 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 delivered pursuant to option (1) must be removed from the LDC Warehouse within 10 working days of receipt. Failure of the manufacturer's representative to remove samples from the LDC Warehouse upon the expiration of the ten (10) days will result in destruction of said products. The Division will not be responsible for any damages occurring while said products are stored in the LDC Warehouse. Regardless of whether distributed by LDC or purchased from a package retailer permittee, the bottle must be marked "Sample" by the manufacturer's representative or its employee before being used for sampling purposes. Any unused product may be taken by the manufacturer's representative to be offered as a sample at another location.

- 103.01 The manufacturer's representative is responsible for paying all freight costs, excise taxes, mark-up, sales or use taxes, and any other costs assessed on sample products upon receipt of that product from the LDC Warehouse. Distribution of any product on which taxes have not been paid is strictly prohibited.
- 103.02 New product may be withdrawn for sample use in a limited amount from bailment inventory if approved in writing by the manufacturer. Such written approval shall include a description of the product to be removed as well as the amount of product which may be removed. Regardless of authorization given by the Manufacturer, the quantity to be removed is subject to limitation by the Director of ABC. This product shall be used as samples by manufacturer representatives only for licensed permittees. Samples shall never be allowed for trade shows. The product shall be labeled as samples as required by Paragraph 103 of this Chapter.
- 104 The manufacturer's representative and his employees shall, on or before the fifteenth day of each month, file a report with the Enforcement Section 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 Department may delist the manufacturer's products.
- 106 A manufacturer's representative, or his employee, may transport sample alcoholic beverages anywhere within the state provided that such person has obtained authorization for transport from the Division. Such products must be stored outside the passenger compartment of a motor vehicle or in an enclosed container.
- 107 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.



- 108 An on-premises permittee may assemble other permittees, along with their licensed managers or 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. On-duty managers and employees are strictly prohibited from sampling alcoholic beverages.
- 109 Package retailers may consume samples of alcoholic beverages on their licensed premises only if all applicable regulatory requirements in the Chapter are met. Any such samples provided by manufacturers or manufacturers' representative for this sampling may not be distributed to, sold to or given away to customers. Only the package retailer permit owner and approved managers may consume sample alcoholic beverages on the premises and only during legal hours in an area removed from the general public. The manufacturer's representative must be present during the sampling. The manufacturer's representative must remove all unconsumed samples but may offer such alcoholic beverages as samples at other permitted locations in compliance with these regulations. On-duty managers and employees are strictly prohibited from sampling alcoholic beverages.
- 110 No alcoholic beverage products distributed as samples by manufacturers or manufacturer representatives may be sold, offered for sale, or distributed to any person by any permittee, manager, or employee of the permittee.
- 111 A package retailer may conduct tasting events for its customers only if the following criteria are met and maintained:
1. The retailer must obtain written approval from the Department at least two weeks prior to the event;
  2. There can be no charge to the customer for attending or taking part in the event;
  3. All tasting product must be served and consumed in an area that is cordoned off by barriers clearly separating the event from the point of sale of any alcoholic beverages;
  4. No event may last longer than 4 hours and must occur during regular hours of business;
  5. No one under 21 years of age may attend or take part in the event and a sign clearly stating this prohibition must be placed at the entrance of the premises;
  6. No food may be served at the event;
  7. Each serving of wine served at the event shall not exceed 1-1/4 ounces and no more than a cumulative total of 5 ounces of wine may be consumed by a customer at the event;
  8. Each serving of distilled spirits served at the event shall not exceed 1/4 ounce and no more than a cumulative total of 1 ounce of distilled spirits may be consumed by a customer at the event;
  9. All product used for tasting must be provided by the package retailer from its own inventory and purchased from the ABC Warehouse or another package store permittee licensed as a wholesaler. It cannot be provided by a manufacturer or its representatives;
  10. Only the package retailer's employees may serve the alcohol;

11. Tickets may not be sold for the event;
  12. The retailer may only hold 1 event in a rolling three month period; and
  13. At the end of the event, package retailers must immediately remove all opened alcoholic beverage bottles used during the event from the premises.
- 112 If a package retailer holds a tasting event described in Paragraph 111, the permittee must keep an accurate accounting of the various alcoholic beverages and amounts consumed at each event. The permittee must provide a copy of this accounting to the Department within 10 days of completion of each event.
- 113 A Class 1 manufacturing permit holder may provide product to patrons for sampling if the following criteria are met and maintained:
1. The product must be manufactured by the distillery retailer at the site at which the product is being offered for sampling;
  2. The product may only be offered in conjunction with a structured tour of the distillery, which must include the entire manufacturing and distilling processes and methods used at the distillery;
  3. The product must be offered at no cost to the patron;
  4. The product may only be ingested on the premises of the distillery;
  5. The product may only be offered for sampling between the hours of 8:00 a.m. and 10:00 p.m.;
  6. No one under 21 years of age may attend or take part in the event, and a sign clearly stating this prohibition must be placed at the entrance of the premises;
  7. Each sample served may not exceed  $\frac{1}{4}$  ounce, and no more than 4 samples of all product may be provided to an individual during a 24 hour period; and
  8. The Distillery Retailer must keep an accurate accounting of the various product provided and consumed as samples. This accounting must be kept for at least 3 years and must be made available for review by ABC upon request.
- 114 (Reserved)

*35.II.2.13 revised effective August 3, 2019*

#### **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 Division.
- 101 (Reserved)

#### **Chapter 15 Manufacturer (Rectifier)**

- 100 No manufacturer's (rectifier's) permit shall be issued until satisfactory evidence is furnished 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 to the Division not later than the 10<sup>th</sup> of each month. In addition, manufacturers (rectifiers) shall furnish the Division duplicate copies of the bills of lading covering all shipments of the products of the permittee.
- 102 All laws, 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 Division.
- 103 (Reserved)

## **Chapter 16 Qualifications for Agents**

- 100 No person shall be employed as an agent of the 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 possess a current State of Mississippi Law Enforcement Professional Certificate. Any agent of the Division is subject to assignment to any location within the State of Mississippi consistent with the mission needs of the agency for alcoholic beverage enforcement.
- 101 (Reserved)

## **Chapter 17 Mutilation of Shipping Labels**

- 100 No permittee or employee of the permittee shall mutilate, destroy or remove shipping labels or other information stamped or otherwise affixed to any case of alcoholic beverages delivered to the permittee from the LDC Warehouse nor shall any permittee or employee of the permittee allow the purchaser of alcoholic beverages to remove the labels or information while on the permittee's premises.
- 101 Any action described above will be considered a violation of the regulations and will result in fines, suspension or revocation.
- 102 (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 Division. Once the contents flow from the original containers, as received from the 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 Division or law enforcement 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 Division or a law enforcement officer, 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 Division.
6. The use or alteration of such equipment without prior approval from the 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, Part II, Subpart 2, Chapter 13 of the Mississippi Administrative Code, no package retailer permittee, nor employee or agent of the permittee, will be permitted on the premises of the permitted place of business pursuant to Miss. Code Ann. Section 67-1-51 while consuming or while under the influence of an alcoholic beverage, beer or light wine.
- 101 No on-premise permittee, nor employee or agent thereof, will be permitted on the premises of the permitted place of business pursuant to Miss. Code Ann. Section 67-1-51 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 pursuant to Miss. Code Ann. Section 67-1-51 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 Department may revoke or suspend the license of any package or on-premise permittee for the violation of the provisions of this chapter. The failure of any permittee, or employee or agent thereof, to submit to an intoxilyzer or field sobriety test after being charged with being intoxicated, and having been requested to do so by agents of the 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; Shipping of Wine from Wineries to Package Retailers for Sale**

- 100 Pursuant to all Federal requirements and Miss. Code Ann. Section 67-1-41, permittees may purchase alcoholic beverages from a package retailer holding applicable Federal wholesale permits and who have been approved by the Department 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 Division.
- 101 Any qualified package retailer may apply with the Department 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. Section 67-1-57 in order to qualify for approval by the Department. The package retailer's authorization to make wholesale sales may be suspended or revoked for any violation of the Local Option laws, or the rules and regulations.
- 102 Each package retailer authorized to sell at wholesale shall use invoices provided by the Division for sales to other 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. and 10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. New permit holders must make their initial order of alcoholic beverages with the Alcoholic Beverage Control before making a purchase from an approved wholesaler.
- 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 the 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 three (3) years and, upon request, must be immediately provided to the Division or other law enforcement agency requesting same.
- 106 A package retailer authorized to make said wholesale sales shall electronically file a form with the Division showing the on-premises sales for each given month. This information must be filed electronically by the 20th day of the month following the sale. Information reflecting wholesale sales made to other package retailers shall not be included on the form. The seller shall maintain a copy of all sales transactions (on premises and package retailers) for a period of three (3) years. Upon request of the Division 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 levied pursuant to Miss. Code Ann. Section 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 Division's price book in effect at the time of the sale.
- 108 Transaction reports submitted to the Division shall be in a standard reporting format unless prior approval for business generated forms is given. Permittees that hold a wholesale permit and make no sales during the preceding period must file a report indicating no sales for that period.
- 109 A package retail permittee may receive wine from a winery under the procedure outlined in and for the purposes stated in Miss. Code Section 67-1-41.

*35.II.2.20 revised effective March 8, 2021*

## **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 Division by providing 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 Division 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 Division, using required forms.
- 104 (Reserved)

## **Chapter 22 Exchanges, Credits and Refunds**

- 100 Permittees holding package retailer's permits may allow a customer to return bottles of package liquor for exchange 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 A permittee may not issue a refund or allow an exchange for liquor purchased from any other source.
- 102 (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. Additionally, package retailers may sell edibles for consumption off the premises.
- 101 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.
- 102 Sales of ice must be limited to commercially bagged ice in original sealed and unopened bags containing five (5) or more pounds.
- 103 Soft drinks include original commercially sealed and unopened containers. Fountain drinks are not considered soft drinks under this regulation.

- 104 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.
- 105 Mixers are non-alcoholic beverages in a liquid and dry form commonly used to dilute or enhance an alcoholic drink or cocktail, packaged in original commercially sealed and unopened containers. The only dry mixers that shall be sold are those dry mixers which are specifically produced and marketed for the express purpose of mixing with the alcoholic beverage. Product commonly known as “margarita salt” is considered a dry mixer and may be sold by package retailers. Dry products which may be mixed with alcoholic drinks but which are not specifically produced and marketed for that purpose are not allowed. Any dry mixer about which there is any doubt shall be submitted to the Department for prior approval.
- 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 cannot 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 Chief of Enforcement.
- 108 A Manufacturer or its representative may, upon the consent of the Package Retailer, assemble bonus packs at the licensed premises so long as such items packaged with the alcohol are limited to those items listed in Section 100 of this Chapter. Bonus Packs are defined as the combination of an alcoholic beverage and another item listed in Section 100 of this Chapter. Such Section 100 items may be provided either by the package retailer or the Manufacturer or its representative. Package Store Retailers may not separate bonus packs after such packs are assembled by the manufacturer or its representative. Further, a bonus pack must be assembled by the manufacturer or its representative. It may not be assembled by the package retailer nor may manufacturers provide bonus pack materials to the retailer for future assembly.
- 109 Edibles are fruits and foods that have been submerged in alcohol and sold in containers containing not less than 50mL of product, as determined by combining the fruit and/or food and alcohol contained in the container. All such products are considered to be alcoholic beverages and must be purchased by retailers in a manner compliant with all requirements necessary to purchase and resell alcoholic beverages. Except as stated in this regulation, edibles will be treated the same as any other alcoholic beverage product.



110 (Reserved)

*35.II.02.23 Revised effective November 15, 2023*

## **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. A holder is prohibited from charging a fee for cashing a check.

101 (Reserved)

*35.II.2.24 revised effective December 1, 2020*

## **Chapter 25 Alcohol Delivery**

100 A retailer may offer home delivery of alcohol ordered by its patrons based on the type of alcohol permit it has. A retailer with a beer permit will be able to offer delivery of beer, light wine and/or light spirits products. A retailer with a package retailer permit will be able to offer delivery of sealed alcoholic beverages. A retailer with an on-premises permit will be able to offer delivery of one bottle of wine for every two entrees ordered.

101 Retailers can accept orders on-line, in-person, or over the phone.

102 A retailer must obtain a delivery service permit in order to deliver alcohol to patrons. If a retailer wishes to pay a service to deliver, it must enter into a contract with a delivery company that has a delivery service permit.

103 Deliveries cannot be made to any location more than 30 miles from the retailer's premises. This distance shall be measured in a straight line, such as air line distance, rather than the usual route of traffic travel.

104 Deliveries cannot be made in areas that are dry for the sale of alcoholic beverages as indicated by the Wet/Dry map located on the Department's website. Delivery is available to any residences located in qualified resort areas as listed in any subsection of Miss. Code Section 67-1-5(o)(iii).

105 Deliveries must be made during legal hours of sale for alcoholic beverages.

106 Alcohol cannot be delivered to anyone under the age of 21, to anyone who is visibly intoxicated, to other retailers, or for resale.

- 107 Before providing alcohol to the recipient, the deliverer must first utilize scanning software on the recipient's identification to confirm that the recipient is over the age of 21. The software must also collect the recipient's name and date of birth. The deliverer must maintain this information for twelve (12) months and be subject to review by the Division upon request.
- 108 The deliverer shall return all alcohol to the retailer if:
1. The recipient is under the age of 21, presents identification that is not his or hers, refuses to present identification, or refuses to accept delivery; or
  2. The deliverer determines the presence of illegal conduct, overconsumption of alcohol or determines that the environment is unsafe for consumption of alcohol.
- 109 Alcohol may be ordered from the retailer as authorized by law. Beer, light wine, and light spirit products may be delivered in bottles or cans. Such products may also be delivered by draft or glass so long as the product is delivered in a sealed container. Alcoholic beverages may be delivered from package retailers in closed, sealed bottles. Restaurants may only deliver one bottle of wine per two entrees ordered and cannot deliver any distilled spirits of any type containing more than 6% alcohol by weight (including, but not limited to, bottles, shots or mixed drinks using distilled spirits).
- 110 Delivery to consumers is only available for retailers. Wholesalers, distributors, and manufacturers (including, but not limited to, distilleries, native distilleries, wineries, native wineries, breweries, small craft breweries and microbreweries) cannot deliver alcohol to consumers. Delivery is only available for individual consumption. Alcohol cannot be delivered to retailers, wholesalers, distributors or manufacturers under a delivery permit. Package Retailers who have a wholesale permit may continue to deliver alcoholic beverages to licensed package retailer and on-premises permittees.
- 111 (Reserved)

*35.II.2.25 revised effective October 16, 2021*

### **Subpart 3 Licensing**

#### **Chapter 01 Bonds**

- 100 The Department may require any person engaged in the business of manufacturing or retailing alcoholic beverages to enter into a bond under Miss. Code Ann. Section 27-71-21. The amount of bond that may be required of the holder of any retailer's permit under Miss. Code Ann. Section 27-71-21 shall be five thousand dollars (\$5,000.00). This bond shall be in such form as required by the Division.
- 101 New, revised, or different bonds may be required by the Division at any time for any carrier, manufacturer and/or distributor, and any holder of a retailer's bond.

- 102 If a retailer who has been required to obtain a bond by the Department receives notice that his bond is to be cancelled during the permit year, the permittee must immediately provide notification 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. Section 27-71-21 prior to the cancellation date of the original bond.
- 103 Failure to submit a valid bond when required to do so by the Department by the cancellation date will result in automatic suspension of sales until a valid bond is received. In addition, the Department 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 or officer of a limited liability company, , 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. Furthermore, no spouse or relative of, nor any other person living in the same household as a person owning an interest in a package retailer's permit shall own an interest whatsoever in any other package retailer's permit.
- 101 A person, either individually or as a member or officer of a limited liability company,, partnership or association, or as a stockholder, officer or director in a corporation, may own an interest in one package retailer's permit while owning an interest in one or more on-premises retailer's permit. This chapter allows multiple ownership of on-premises retailer permits and allows any person holding an on-premises retailer permit to simultaneously own an interest in a single package retailer's permit.
- 102 However, this chapter 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 Miss. Code. Ann. Sections 67-1-41, 67-1-43 and 27-75-5 will be grounds for revocation of the permit or permits issued.
- 103 This chapter shall not be construed to prohibit rendering professional services for more than one package retailer so long as such professional services do not constitute an ownership interest based on the fee being collected. If the fee paid to the professional is dependent upon the amount of alcohol being sold, this will constitute an ownership interest.
- 104 (Reserved)

*35.II.3.02 revised effective December 1, 2020*

### **Chapter 03 Filing Fee**

- 100 The \$25.00 filing fee is to reimburse the Division for the costs associated with investigating the qualifications of an applicant for a permit, and is forfeited whether the Department 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 pursuant to Miss. Code Ann. Section 67-1-57, 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 a permit shall be transferred by any permittee to any other person or any other place except with the written consent of the Department. A permit shall not be eligible for transfer if it is the subject of an ongoing administrative disciplinary action, including any action under appeal.
- 101 Notice of the intended transfer of 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 location or interest.
- 102 This chapter 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 Department for prior approval.
- 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. Section 67-1-51 \(3\)](#) must submit an updated waiver from the funeral home or church. If the funeral home or church refuses to sign a new waiver, a transfer may not be initiated.
- 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 and may not have been convicted of a felony in any state or federal court. An individual who is an applicant for a package retailer's permit must be 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 or LLC, the designated manager must be a resident of the state.

105 (Reserved)

*35.II.3.05 revised effective December 1, 2020*

## **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 the death or disability. During the 60-day period, any member of the permittee's immediate family may make application to the Department for the unexpired portion of the permit of the decedent to be assigned to him.

101 If such application is approved, 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 Division, following the procedure outlined in Title 35, Part II, Subpart 4, Chapter 1 of the Mississippi Administrative Code.

103 If the application is denied, the inventory of alcoholic beverages, with prior approval from the Division, may be sold to another permitted retailer. In the event that the inventory cannot be sold to another retailer, the Division may take possession of the remaining unopened inventory and refund the estate at the current wholesale price, less a charge for handling and transportation. The items returned will then be placed in the Division's inventory.

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

105 (Reserved)

## **Chapter 07 Qualified and Temporary Resort Areas**

100 Qualified Resort Area:

1. The following definitions shall be used when determining if an area qualifies as a Qualified Resort Area under [Miss. Code Section 67-1-5\(o\)\(iii\)](#):
  - a. "Contiguous acres", when referenced within [Miss. Code Section 67-1-5\(o\)\(iii\)\(11\)](#), shall mean acreage touching or connected throughout in an unbroken sequence and titled to a common owner. A public or private street or road shall not be considered to break the sequence or connectivity of the acreage.

- b. “Course”, when referenced within [Miss. Code Section 67-1-5\(o\)\(iii\)\(11\) and \(12\)](#) and not preceded by the word “golf”, shall mean a series of lectures or lessons in a particular subject, leading to an examination or qualification.
  - c. “Provides lodging accommodations”, when referenced within [Miss. Code Section 67-1-5\(o\)\(iii\)\(10\)](#), shall mean to make available for use or supply a lodging facility owned or leased by the permittee.
- 2. 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 Department by submitting an application.
- 3. 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 and/or votes against recommending this area be designated a resort, the same may be submitted by not less than 100 adult citizens of the community to be affected, and shall in all instances include the following items:
  - a. A map clearly marked to indicate the specific area under consideration. GPS coordinates should be used to delineate boundary lines.
  - b. Reasons why the particular area attracts tourists, transients and/or vacationers and therefore should be designated as a qualified resort area.
  - c. Endorsements by civic clubs located near the area under consideration.
  - d. Assurance from the Sheriff or Sheriffs of the area that he will enforce the Local Option laws of the State of Mississippi, and the rules and regulations of the Division. 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. If the governing body wishes for the hours of sale to be limited, the order should contain this request.
  - 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, identify the proposed resort area, a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars and the sale of alcoholic beverages in the area.
- 4. Adjacent or affected areas may either join in or file objections to the application with the Department.

#### 101 Temporary Resort Area:

- 1. The Department is authorized to approve a certain area or locality 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 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. GPS coordinates should be used to delineate boundary lines.
  - c. A list of steps taken or to be taken in developing the area as a qualified resort area and the reasons such steps will result in the attraction of tourists, transients and/or vacationers.
  - d. Endorsements by civic clubs located near the area under consideration.
  - e. Assurance from the Sheriff of the area that he will enforce the Local Option laws of the State of Mississippi, and the rules and regulations of the Division.
  - 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, identify the proposed resort area, a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars and the sale of alcoholic beverages 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.

102 (Reserved)

*35.II.3.07 revised effective December 1, 2020*

## **Chapter 08 Common Carriers Reporting**

- 100 Common carriers, in lieu of purchasing alcoholic beverages for resale from the Division, must file a Common Carrier Reporting Form. The common carrier reporting forms and the total amount due must be filed by the 20<sup>th</sup> of the month for the preceding month. The report will be audited as required by the 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 Department. The records and inventory of alcoholic beverages shall be open to inspection by Division or any of its duly authorized agents at any time.
- 102 If common carriers purchase the alcoholic beverages they sell while traveling through the State of Mississippi from the Division, the Common Carrier Reporting Form does not have to be filed.
- 103 Alcoholic beverages can only be served and/or consumed while inside the permitted common carrier. Common carriers are prohibited from serving alcoholic beverages or allowing the consumption of alcoholic beverages while stopped in a dry county.

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, Part II, Subpart 2, Chapter 3 of the Mississippi Administrative Code, if and only if the alcoholic beverages were purchased directly from the Department.

105 (Reserved)

## **Chapter 09 Qualifications of Employees and Managers**

100 The permittee shall be responsible, at all times, for acts of manager(s) and/or employee(s) which are in violation of the Local Option laws or rules and regulations, and which take place at the permitted establishment regardless of whether the permittee is present.

101 Any permittee shall not knowingly employ any individual who has been convicted of a felony within the past three years immediately preceding employment or who has been convicted and incarcerated for any crime within a period of one year immediately preceding employment. 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 from the Division. To obtain approval of the proposed manager, the permittee must file the following forms:

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

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

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

106 (Reserved)

## **Chapter 10 Management Agreement**



- 100 The permittee in all cases must operate 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 Department has approved the same.
- 102 The management agreement must provide that the permittee will be absolutely responsible for any and all violations of the Local Option laws or rules and regulations occurring on or about the licensed premises.
- 103 Where the law authorizes an on-premises retailer's permit to be issued to a restaurant or hotel, the operation of the lounge located on its 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 Division prior to, and at any time after, the issuance of a retailer permit:
1. A properly completed application for Retailer's Permit
  2. Proof of Publication Affidavit on Legal Notice pursuant to Miss. Code Ann. Section 67-2-53(2) to include two (2) tear sheets from the newspaper in which said the 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.
  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 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 any permit renewal, the permittee must submit an affidavit attesting that there will be 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 Division. Further, the Department 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.
  6. A complete, current and accurate summary financial statement(s) as follows:
    - a. Sole Owner Business – on the owner.
    - b. Partnership – on the partnership and each partner thereof.

- c. Corporation for profit (Non Profit excepted) – on the corporation and;
    - i. On-Premises Retailer – each officer who owns ten percent (10%) or more of the stock of such corporation and all major stockholders.
    - ii. All other permit classes –each officer and all major stockholders.
  - d. Limited Liability Company – on the LLC and each member thereof.
  - e. 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.
- 7. A statement of ownership.
  - 8. Personal records and fingerprint forms
  - 9. Sales tax registration including the Mississippi Sales Tax Number
  - 10. Food Service Permit
  - 11. A copy of a waiver of the distance requirements from 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. Bed and breakfast inns listed on the National Register of Historic Places are exempt from all distance requirements.
- 101 The Alcoholic Beverage Control Division 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.
- 102 (Reserved)

## **Chapter 12 Hotels**

- 100 A hotel, as that term is defined by Miss. Code Ann. Section 67-1-5(1), 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 Temporary retailer's permits may be issued by the Department. These permits allow the purchase and resale of alcoholic beverages and native wines during legal hours and only on the premises described in the permit.
- 101 An alcoholic beverage permit may not be issued or transferred while there is pending in the Courts, or before the Department, any charge of violating the Local Option laws or rules and regulations, or the laws against gambling in the State, pursuant to Miss. Code Ann. Section 67-1-67.

- 102 All permit fees, filing fees, and additional privilege fees are to be paid by the temporary permittee, in advance, with certified funds.
- 103 (Reserved)
- 200 A Class 1, one-day temporary permit, authorizing the sale of alcoholic beverages by the drink, may be issued to a bona fide nonprofit civic or charitable organization. An entity may be considered a bona fide nonprofit civic or charitable organization by submitting documentation evidencing that it is both deemed tax exempt by the Internal Revenue Service pursuant to 26 U.S. Code Section 501 and registered with the Mississippi Secretary of State as a non-profit entity. If granted, the permit shall allow 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, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code.
- 201 Application forms provided by the ABC for Class 1 Temporary Alcoholic Beverage Permits shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with the requirements of Miss. Code Ann. Sections 67-1-11, 67-1-37, 67-1-51 (2), and (3), 67-1-55, 67-1-57, excluding paragraph (e), and 67-1-59. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the application based on a reasonable belief that the applicant does not meet the required qualifications. If it is determined that an organization is not following ABC rules and regulations while operating under a temporary permit, this may provide a reason for ABC to believe that the organization will sell or knowingly permit its agents or employees to unlawfully sell alcohol in a manner contrary to law and, accordingly, provide a basis for denying future temporary permits to the organization. Any denial of a Temporary Alcoholic Beverage Permit, or an appeal from such denial, shall be conducted in accordance with Title 35, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.
- 202 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 1 Temporary Alcoholic Beverage Permit holder. Any bottled alcoholic beverages remaining in the possession of the Class 1 Temporary Alcoholic Beverage Permit holder may, with approval of the package retailer, be returned to the package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.
- 203 Any package retailer or Class 1 Temporary Alcoholic Beverage Permit holder violating the terms of this chapter may, at the discretion of the Department, have his permit suspended or revoked, or may be denied a future permit by the Department.

- 204 A Class 2 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.
- 205 (Reserved)
- 300 Application forms for Class 2 Temporary Alcoholic Beverage Permits provided shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with Miss. Code Ann. Sections 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 Part II, Subpart 3, Chapter 11 of the Mississippi Administrative Code. Upon the failure of the applicant to submit these matters within required time, the temporary permit will lapse and liquor sales will be prohibited. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the 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, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.
- 301 Upon approval of a Class 2 Temporary Alcoholic Beverage Permit, the temporary permittee must purchase his alcoholic beverages directly from the Department and/or, with the Department's prior approval, purchase the remaining inventory of the previous permittee. Alcoholic beverage purchases from the Division are to be paid by the temporary permittee, in advance, with certified funds. Any Class 2 temporary permittee shall pay additional privilege fees as set forth in Miss. Code Ann. Section 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.
- 302 A Class 2 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, Part II, Subpart 3, Chapter 11 of the Mississippi Administrative Code. An application for a Class 2 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 2 Temporary Alcoholic Beverage Permit application.
- 303 Upon issuance of a Class 2 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 Division on the original permit. Furthermore, alcoholic beverages can only be sold and consumed pursuant to the Class 2 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 following the Department's approval of a transfer or following proof

that the original owner has retained the particular location and the Class 2 temporary permittee no longer desires the permit.

- 304 The hours for sale and consumption of alcoholic beverages for Class 2 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, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code, or as set by state law.
- 305 (Reserved)
- 400 A Class 3 temporary one-day permit may be issued to qualified retail establishments and authorizes the complimentary service of wine only, including native wine, to patrons attending an open house or promotional event, for consumption only on the premises described on the temporary permit. This permit shall only allow consumption during the times permitted for other on-premise retailer locations in the city or county where the permit is issued pursuant to Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that holds either a merchant permit issued under Miss. Code Ann. Section 67-1-51(l), or holds a permit issued under Miss. Code Ann. Chapter 3, Title 67 authorizing the sale of beer or light wine.
- 401 Application forms provided by the ABC for a Class 3 temporary permits shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with the requirements of Miss. Code Ann. Sections 67-1-11, 67-1-37, 67-1-51 (2), and (3), 67-1-55, 67-1-57, excluding paragraph (e), and 67-1-59. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the 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, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.
- 402 All alcoholic beverages purchased for resale by a Class 3 temporary permit holder 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 3 temporary permit holder. Any bottled alcoholic beverages remaining in the possession of the Class 3 temporary permit holder may, with approval of the package retailer, be returned to the package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.
- 403 (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 Department upon application, if the applicant meets the qualifications as provided for by Miss. Code Ann. Sections 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 notice of the location of the catered event 10 days prior to the event. A copy of the permit shall be prominently displayed on the premises of the catered event.
- 103 Alcoholic Beverage Control Division agents 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 the 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 Department 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 reflects the receipt of alcoholic beverages from the Department, 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. All 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 shall be open to inspection by any duly authorized employee of the Department. Caterers must comply with all record keeping procedures as outlined in Title 35, Part II, Subpart 2, Chapter 6 of the Mississippi Administrative Code.
- 105 The Department may revoke or suspend the caterer's permit issued for any violation of the rules, regulations and statutes, as they pertain to alcoholic beverages, by the permittee or any agent, employee, associate, or representative of the permittee, 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 Department to any person, firm, or corporation upon written application and applicable filing fees to the Division. If the applicant is a corporation, an officer of the corporation must affix their signature upon the application. If the 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 on the use of alcoholic beverages for legitimate

cooking, processing, or manufacturing purposes and that the applicant meets the qualifications, as provided for by Miss. Code Ann. Sections 67-1-53, 67-1-55 and 67-1-57. Sales tax is not due on purchases of alcoholic beverages by those holding an alcohol processing permit. The permit holder will be required to obtain a sales and use tax direct pay permit in order to purchase such beverages exempt.

- 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 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 Division minimum purchasing limits 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 and shall include the itemized purchase invoices and tickets bearing the date of purchase and name of the seller of all alcoholic beverages. The Division reserves the right at any time to inspect all such inventory records as well as the permitted premises.
- 103 The Department may revoke or suspend the processors permit for violation of any of the Local Option laws or rules and regulations by the permittee or any agent, employee, associate, or representative of the permittee.
- 104 (Reserved)

## **Chapter 16 Calculation of Permit Fees**

- 100 Applicants are required to pay the applicable privilege license tax listed in Miss. Code Section 27-71-5 prior to the issuance of a permit.
- 101 If the amount of a privilege tax is determined by annual production volumes, a permittee will state within its application or renewal its projected production and pay the corresponding privilege license tax. Thereafter, the permittee will submit a report through TAP at the end of each month stating the gallonage it produced during that month. If a monthly output results in the permittee producing more aggregately for the year than it projected on its application, the Department will assess the permittee the applicable license tax increase during the year should the increased output result in an increased tax. If at the end of the permit period a permittee has produced less than originally estimated resulting in any overpayment, it may seek a refund if applicable. A permit will not be renewed until all outstanding privilege license taxes are paid in full and all other renewal requirements are met.

102 This calculation monthly report and assessment procedure will be applicable to determining the privilege license tax for all alcoholic beverage permits which are based on production, including, but not limited to, native wineries, native distilleries, and Class 1 manufacturers permits.

103 (Reserved)

*35.II.3.16 effective August 2, 2021*

#### **Subpart 4 Warehouse Operations**

##### **Chapter 1 Disposition of Inventory When Permit is Revoked, or Not Reissued, or When Counties Vote to Go Back Under Prohibition Laws**

- 100 Inventory held by a permit holder must be disposed of when:
1. The permit expires and the permittee has made no application for renewal;
  2. The Department has refused to reissue the permit;
  3. The permit has been revoked by the Department;
  4. There has been a death or physical or mental disability of the permit holder
  5. The permit holder desires to discontinue the business prior to the expiration of the permit; or
  6. The county or judicial district where the permit holder is located has voted to go back under the prohibition laws.
- 101 The permittee shall be given a period of sixty (60) days after the expiration or revocation of the permit within which to make a sale of the alcoholic beverages on hand to another permittee, and if a purchaser is found , the permittee shall comply strictly with the following procedures before making any sale of his stock of goods:
1. A written request shall be submitted to the Director along with a complete and detailed inventory of all merchandise on hand.
  2. The request shall be signed by the holder of the permit who desires to sell the merchandise and by the permit holder who desires to purchase the merchandise. No sale shall be made except to a retail establishment which has been duly licensed by the Alcoholic Beverage Control.
  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 pursuant to Miss. Code Ann. Section 27-71-5, the current wholesale value of the alcoholic beverages purchased shall be recorded just as any regular purchase of alcoholic beverages from the LDC Warehouse on the permittee's purchase records.
- 102 The Division may at its discretion take possession of any and all alcoholic beverages remaining in stock of the permittee and a refund shall be made to the permittee at the current wholesale price. A charge for handling and transporting the product to the LDC



Warehouse will be deducted from the refund. All permit fees paid by the permittee shall be forfeited. Such alcoholic beverages shall be placed in the Alcoholic Beverage Control Division inventory and sold in the regular course of business.

- 103 Permit holders desiring to discontinue business prior to expiration of the alcoholic beverage permits shall surrender their permits for cancellation.
- 104 Permit holders who desire to return their stock to the LDC warehouse may do so at the discretion of the Director pursuant to the procedures outlined in paragraph 101 above. Requests to return alcoholic beverages to another permittee must also be approved by the Director.
- 105 No credit of merchandise returned to the LDC Warehouse shall be given under this Chapter for purchases of delisted items, novelty items contained in dual packaged products, holiday packages, special orders or items not saleable. Such special merchandise shall not be redeemed by the Division under any circumstances. All redeemed inventory will be placed in the ABC inventory.
- 106 (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 are f.o.b. retailer and contain all taxes with the exception of the Mississippi sales tax. Mississippi sales tax will be computed on the total invoice price and added to each purchase.
- 101 (Reserved)

## **Chapter 03 Payment**

- 100 All payments for orders or alcoholic beverages must be made by cash, credit card, bank check, cashier's check, ACH Debit, post office money order or express money order. Permittees must send payment with their written orders on forms supplied by the Division be authorized for ACH Debit status or payment via credit card.
- 101 The Division will draft the permittee's bank account for the amount of each invoice if the proper authorization is received by the 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 payment was made, the Department will temporarily discontinue sales of alcoholic beverages until such time as payment is received.
- 103 (Reserved)

## **Chapter 04 Split Cases**

- 100 A number 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 permittees. The current price list will contain instructions for ordering split cases.
- 101 (Reserved)

## **Chapter 05 Special Order Procedures**

- 100 All products must have an approval from the Department before a company or an agent may make any sales or take any orders for such products. 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. A sample or picture of the actual beverage container and label must also be provided for review.
- 101 Special orders for any and all types of alcoholic beverages not currently listed on ABC's price list and not prohibited by Title 35, Part II, Subpart 2, Chapter 5 of the Mississippi Administrative Code may be placed by package retailer or on-premises permittees in case lots only.
- 102 Special orders received by the Alcoholic Beverage Control Division will be processed as promptly as feasible.
- 103 The 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 an order with the Division and shall remit funds to cover the entire cost.
- 104 In addition, the provisions of Title 35, Part II, Subpart 4, Chapter 1 of the Mississippi Administrative Code dealing with the return of merchandise by permittees shall not apply to special order merchandise. Any special order merchandise shall be redeemed only as dry concealed damage as set forth in the Alcoholic Beverage Control Price List Book.
- 105 All special orders must be labeled properly and in accordance with industry standards. If the LDC Warehouse labels the product, a fee will be charged.
- 106 (Reserved)

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

- 100 Importers, vintners and distillers may warehouse and store alcoholic beverages in private bonded warehouses in Mississippi for the ultimate use and benefit of the Department of Revenue by obtaining prior approval from the Department. Bonded warehouses may be

owned or operated by any entity which posts the required bond as provided in Paragraph 102 below.

- 101 All alcoholic beverages shipped into this state for storage in a private bonded warehouse must have the proper Mississippi ABC item code label affixed to each case. No withdrawal from inventory shall be permitted from a private bonded warehouse for shipment outside of the State of Mississippi unless special permission is obtained from the Director.
- 102 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 Division, 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.
- 103 Shipments from a private bonded warehouse to the LDC Warehouse must be by common carrier unless prior written approval of an alternate shipper is obtained in writing from the Director. All shipments to the LDC Warehouse 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 LDC Warehouse will be inspected and refused if the shipment contains unlabeled/uncoded cases, damaged cases, or mis-shipped cases.
- 104 Shipments from a private bonded warehouse to the LDC Warehouse will be limited to one day per week, to be designated by the Division.
- 105 No alcoholic beverage samples shall be shipped into, stored, or shipped out of a private bonded warehouse.
- 106 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 saleable condition at all times. The alcoholic beverages shall not be interspersed with other goods stored in the private bonded warehouse.
- 107 The private bonded warehouse's alcoholic beverage records and alcoholic beverage inventory shall be open for examination at any time. 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 LDC Warehouse.
- 108 All theft of alcoholic beverages must be immediately reported to the local authorities and to the Division.
- 109 An inventory, certified by the bonded warehouseman with whom such alcoholic beverages are stored, shall be furnished to the Department within five (5) days after the close of business at the end of each calendar month.

110 (Reserved)

### **Chapter 07 Procedure for Listing Alcoholic Beverage Items**

- 100 New listings will be considered every other month by the Department. In order for a product to be considered for listing, it must have met or exceeded a rolling twelve (12) month sales revenue formula as set forth by the Division. The manufacturer must also be in compliance with the inventory management guidelines as set forth by the Division.
- 101 In addition, the Department retains full discretion to list or not list any product. Each company or agent shall submit to the Division the new items it wishes to list.
- 102 Products must be quoted in case units as provided by the manufacturer. Strapping or taping cases together or subdividing cases into units other than the manufacturer's original case unit is prohibited. Once approved, products shall be shipped to the LDC Warehouse in original case units as provided by the manufacturer.
- 103 Unique products or classes of products may, at the discretion of the Division, be separated from the wine or spirit categories and given its own minimum revenue and case sales requirements as circumstances dictate.
- 104 The total revenue from sales shall equal the case cost, at wholesale, multiplied by the number of cases sold during the rolling twelve (12) month period. This formula is based on cases actually sold to permittees and not based on cases ordered. Cases which are ordered by permittees but not sold due to the fact that the product ordered is out of stock or for any other reason will not be considered in the application of the formula.
- 105 Furthermore, any special order item that meets or exceeds the rolling twelve (12) month sales revenue formula may, at the Department's discretion, be placed in the Division's Price List.
- 106 One-of-a-kind and holiday items are exempt from the quota requirements. No holiday item shall contain cash, coupons, rebates, or any items subject to spoilage.
- 107 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. All price change requests must be placed with the Division at least 60 days prior to the requested effective date.
- 108 Each bottle of native wine shall have clearly imprinted on the label the words Mississippi Native Wine.
- 109 (Reserved)

*35.II.4.07 revised effective December 1, 2019*

## **Chapter 08 Procedure for Delisting or Deleting Alcoholic Beverages**

- 100 Any items on the Division's price list will be delisted for failure to meet the current sales revenue formula prescribed by the Division; however, the Department may, in its discretion, continue to maintain an item in its price list that does not meet the minimum revenue standard. Furthermore, the Department reserves the right to delist any item for violation of any law or regulation or when, in its opinion, the best interest of the Division may be served.
- 101 The storage of items at the LDC Warehouse is strictly a voluntary act by its owner(s). The Department retains the right to regulate the location of all items placed in bailment. Manufacturers shall manage the inventory of items stored in the LDC Warehouse in compliance with the parameters as set forth by the Division. Manufacturers who do not comply with the guidelines as set forth, may, at the discretion of the Division, be stopped from listing new products and special purchase allowances. Failure of a company to stock a bailment item after the effective date of the price list may result in the delisting of the item.
- 102 Any bailment item voluntarily removed by the company, or delisted by the Department, shall be removed from the State at the direction of the Department. Delisted items must be removed from bailment within thirty (30) days from the date of delisting. Any item delisted will not be eligible for re-listing for a minimum of one (1) listing period. Delisted items may, subject to Department approval, be offered as a special order item pursuant to Title 35, Part II, Subpart 4, Chapter 5 of the Mississippi Administrative Code.
- 103 All products remaining after the thirty (30) day period shall become the property of the Division for disposition as it sees fit.
- 104 (Reserved)

*35.II.4.08 revised effective December 1, 2019*

## **Chapter 09 Dual Packaging**

- 100 The holder of a manufacturer's or solicitor's permit may submit to the Division certain unit packages consisting of a specialty or novelty item and an alcoholic beverage previously listed with the Division for sale in retailer package stores. Novelty items include, but are not limited to: T-shirts, sportswear, glassware, stoneware, flags, and banners. However, goods subject to spoilage will not be permitted. All products containing dual packaged items must have prior approval of the Division.
- 101 The unit packages shall be assembled prior to shipment to the LDC warehouse 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 Division will not be responsible for damaged or defective dual packaged products other than alcoholic beverages.

- 102 A Manufacturer or its representative may place a 50 mL alcohol product on the neck of a bottle of another alcohol product in a package store. The 50 mL alcohol product must be a new product and must come through the Liquor Distribution Center and picked up by a broker for distribution. The LDC must receive authorization from the manufacturer which states the product and specific quantity to be removed by the broker for distribution before it may be used in this manner.
- 103 (Reserved)

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

- 100 Mississippi uses the bailment system for operations of the LDC Warehouse. When bailment is used, there will be a bailment agreement between the Division and the vendor. Under the bailment system, ABC inventory is used first; when the ABC inventory is insufficient, the vendor's inventory will be utilized.
- 101 All bailment alcoholic beverages received by the Division will be stored at the Liquor Distribution Center Warehouse. The Division will determine the location of all alcoholic beverages stored in the LDC Warehouse. The Division reserves the right to manage warehouse space allocation.
- 102 (Reserved)
- 200 Vendors will own and control the stock that enters the LDC Warehouse. The Division will take physical inventory on a continuous cycle counting basis. Any irreconcilable discrepancies will be resolved as follows:
1. The Division will pay the vendor for the product in cases of physical shortage of the vendor's product.
  2. The Division will place any surplus into its own inventory in cases of physical overage of the vendor's product.
- 201 Vendors may conduct their own physical inventory of stock held in bailment by arrangement with the Division at least 48 hours in advance. Vendors or their agents should bring discrepancies to the attention of the Division.
- 202 The Division will routinely authorize the product into the distribution center for restocking purposes.
- 203 The Division will require that vendors designate an agent who will be responsible for approving stock withdrawal. A Mississippi Bailment Warehouse Vendor's Authorization Representative Form should be completed for each authorized agent. Vendors must update this document as needed.

- 204 The Division 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 two (2) hours after receipt of the notification, the vendor will be deemed to have authorized the anticipated purchase. This report shows the maximum anticipated purchases. Actual purchases may differ due to the availability of the vendor's product on the date the inventory was picked, the availability of new receipts into the LDC Warehouse, and the availability of ABC owned inventory which will be removed first.
- 205 Vendors shall comply with the inventory management guidelines as set for by the Division. Vendors who do not comply, may, at the discretion of the Division, be stopped from listing new products and/or offering special purchase allowances.
- 206 The receipt of bailment merchandise is according to the following terms and conditions.
1. Receiving into the bailment-warehousing systems will take place at the LDC Warehouse.
  2. Product will not be unloaded if it is not shipped on pallets or slip-sheets. Pallets are the preferred method for delivery; therefore, there will be a charge for the use of slip-sheets
  3. Vendors are required to supply LDC Warehouse personnel with a Bill of Lading or Packing List at delivery which must include the control state code, the description and name of the product, and the quantity of the product being delivered to the LDC Warehouse.
  4. The vendor will be responsible for obtaining the freight carrier.
  5. The carrier is required to call the LDC Warehouse to obtain an unloading appointment time. The carrier must indicate the vendor when scheduling the appointment.
  6. The Division 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 Bill of Lading or Packing List supplied by the carrier.
  7. LDC Warehouse personnel will unload all products. Carrier drivers are required to witness the unloading. The driver and Division representative will sign the unloading report form and the Bill of Lading or Packing List.
  8. If the Division discovers an error in the receiving process, the Division will complete an Inventory Correction form which will be attached to the original receiving report.
- 207 Because the Division may purchase damaged goods and subsequently establish a receivable with the vendor, the LDC Warehouse Operations Manager will be responsible for determining whether damaged goods are to be received into the bailment inventory. The Division will always attempt to resolve any problems in this area to the mutual satisfaction of the vendor and the Division.
- 208 The Division believes that it is advantageous to the vendor and the Division to accept merchandise with small amounts of damage which has occurred during the shipping

process. At the discretion of the LDC Warehouse Operations Manager, goods with slight damage will be received into the Division inventory and placed in the repack area. The Division will purchase the damaged bottle(s) and file a claim against the vendor for recovery of the damaged bottle's purchase price.

- 209 When the Division 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 Division 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 LDC Warehouse until the LDC Warehouse Operations Manager is satisfied with the vendor's determination.
- 210 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.
- 211 Vendor's agents may obtain a report from the NABCA showing the activity of their products.
- 212 (Reserved)
- 300 Vendors may withdraw product from bailment; however, for the purposes of warehouse administration, all removals must be approved 24 hours in advance of removal and will occur during normal LDC Warehouse receiving hours. The vendor must provide in writing the item code, name, description, and quantity of the product being removed, as well as the motor carrier picking up the product from the LDC Warehouse and the product destination. The division will load the product onto the truck. The carrier's driver will observe the loading. Both the Division representative and the driver must sign the Bill of Lading and a copy of the document will be provided to the vendor. The Division will adjust the bailment inventory records and will charge the vendor a handling fee to cover the cost of the requested withdrawal.
- 301 (Reserved)
- 400 The Division will charge for certain services. Charges may include, but will not be limited to, the following services:
1. Labeling
  2. Re-packing
  3. Damage Re-packing
  4. Reloading for shipping
  5. Split case handling
  6. Bailment fees
  7. Unloading product received on slip-sheets
- 401 Vendors must comply with Federal laws, guidelines, and regulations.



- 402 Prior to using the LDC Warehouse, each vendor will be required to execute the bailment agreement and designate an agent.
- 403 The Division will not carry insurance on the vendor's inventory in bailment nor be responsible for any loss. 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 NABCA.
- 404 Claims by vendor must be presented in writing to the Division within thirty (30) days after vendor's claim arises.
- 405 The Division may submit to the vendor and/or the vendor's agent, or may require the vendor or vendor's agent to submit to the Division, other documents necessary to conduct its operations.
- 406 (Reserved)

## **Chapter 11 Retail Pickup from Native Distilleries and Native Wineries**

- 100 Miss. Code Ann. Section 67-1-41(10) allows retail permittees to pick up native wines and spirits sold by the Department, so that those alcoholic beverages may be delivered to the retail permittee at the native winery or native distillery instead of via shipment from the Department's warehouse. All orders for such products must be placed through the LDC Warehouse utilizing TAP.
- 101 Retail permittees may pick up alcoholic beverages directly from a native distillery or native winery after first notifying the LDC Warehouse. Such alcoholic beverages must be listed by the LDC Warehouse to be eligible for direct pick up.
- 102 Retail permittees shall notify the LDC Warehouse via electronic mail at [retail.pickup@dor.ms.gov](mailto:retail.pickup@dor.ms.gov), prior to the order being picked up, that it intends on picking up these products from the native distillery or native winery.
- 103 Retail permittees shall abide by all restrictions on transporting alcoholic beverages, including but not limited to those as stated under Miss. Code Ann. Section 27-71-15 (Means of Transportation).
- 104 (Reserved)

*35.II.4.11 revised effective November 30, 2024*

## **Subpart 05 Native Wine**

### **Chapter 01 Applicant Requirements**

- 100 Prior to obtaining a permit, native wine applicants must satisfy the department that they meet the requirements of Miss. Code Ann. Section 67-1-57.
- 101 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 applied.
- 102 Failure of a permittee to maintain the qualifications necessary for the issuance of a permit, including failure to pay any taxes due the State, may result in the revocation or suspension of a permit.
- 103 (Reserved)

### **Chapter 02 Production**

- 100 In order to be classified as a Mississippi native wine at least 51% of the finished product by volume shall have been obtained from grapes or other sources produced in Mississippi and defined in Miss. Code Ann. Section 67-5-5.
- 101 A holder of a Class 3 Native Wine Manufacturer's Permit shall be allowed to import bulk and/or fortified wines into this state for use in blending with native wines. In addition, permit holders shall make available to the Department 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 Department 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 Persons holding a Class 3 Native Wine Manufacturer's (Producer's) Permit issued pursuant to Miss. Code Ann. Section 67-1-51 shall be required to have the words Mississippi Native Wine clearly printed on the label of each bottle.

103 All native wines produced under permits issued pursuant to Miss. Code Ann. Section 67-1-51 shall be produced in accordance with the sanitary codes and production standards required by applicable federal statutes and regulations of the Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration of the United States Government.

104 (Reserved)

### **Chapter 03 Taxation**

100 Permittees shall pay the annual tax levied pursuant to Miss. Code Ann. Section 27-71-5 on all wine produced in a given year.

101 Permittees shall pay the tax levied pursuant to Miss. Code Ann. Section 27-71-7 on all wine sold in a given year unless that wine is sold for export and sale outside this State or if the wine is given away as free samples pursuant to Miss. Code Ann. Section 67-5-13. This tax shall be remitted monthly.

102 Permittees must provide electronic statements to the Department each month showing:

1. All sales made to consumers at the native winery or in its vicinity;
2. The gallonage produced during the month; and
3. Gallonage sold or exported for sale during the month.

103 Permittees who import bulk or fortified wines from outside this State to be mixed with native wines shall not pay any excise tax on the imported wine.

104 (Reserved)

### **Chapter 04 Retail Operations**

100 A permit shall not be denied based solely on the fact that the proposed winery is located in a county which is considered dry under Miss. Code Ann. Section 67-1-1 et. seq.

101 A native winery may make sales to consumers at the location of the winery or in its general vicinity. The location of said sales must be pre-approved by the Department.

102 Sales made to consumers shall be for either on-premise or off-premise consumption.

103 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 Department to permit sales by native wine retailers located within their jurisdiction at other times. Upon receipt of a petition, or upon its own motion, the Department shall consider the same and set whatever hours of sale it deems appropriate. A certified copy of the resolution of the governing authority requesting permission must accompany all such petitions.

- 104 Native wineries shall not make direct sales to Mississippi alcoholic beverage permittees.
- 105 Native wines may be possessed and consumed throughout the State.
- 106 (Reserved)