

By: Representative Moore

To: Judiciary A

HOUSE BILL NO. 191

1 AN ACT TO AMEND SECTIONS 63-11-30, 67-1-83, 67-3-53, 67-3-69
2 AND 67-3-70, MISSISSIPPI CODE OF 1972, TO REQUIRE A DISTINCTIVE
3 PUNCH ON THE DRIVER'S LICENSE OF PERSONS CONVICTED OF VIOLATING
4 THE IMPLIED CONSENT LAW; TO PROHIBIT THE SALE OF ALCOHOLIC
5 BEVERAGES, BEER AND LIGHT WINES TO PERSONS CONVICTED OF VIOLATING
6 THE IMPLIED CONSENT LAW; TO REQUIRE EXAMINATION OF DRIVER'S
7 LICENSES TO DETERMINE IF BUYERS HAVE BEEN CONVICTED UNDER THE
8 IMPLIED CONSENT LAW; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 63-11-30, Mississippi Code of 1972, is
11 amended as follows:

12 63-11-30. (1) It is unlawful for any person to drive or
13 otherwise operate a vehicle within this state who (a) is under the
14 influence of intoxicating liquor; (b) is under the influence of
15 any other substance which has impaired such person's ability to
16 operate a motor vehicle; (c) has an alcohol concentration of ten
17 one-hundredths percent (.10%) or more for persons who are above
18 the legal age to purchase alcoholic beverages under state law, or
19 two one-hundredths percent (.02%) or more for persons who are
20 below the legal age to purchase alcoholic beverages under state
21 law, in the person's blood based upon grams of alcohol per one
22 hundred (100) milliliters of blood or grams of alcohol per two
23 hundred ten (210) liters of breath as shown by a chemical analysis
24 of such person's breath, blood or urine administered as authorized
25 by this chapter; (d) is under the influence of any drug or
26 controlled substance, the possession of which is unlawful under
27 the Mississippi Controlled Substances Law; or (e) has an alcohol
28 concentration of four one-hundredths percent (.04%) or more in the
29 person's blood, based upon grams of alcohol per one hundred (100)
30 milliliters of blood or grams of alcohol per two hundred ten (210)

31 liters of breath as shown by a chemical analysis of such person's
32 blood, breath or urine, administered as authorized by this chapter
33 for persons operating a commercial motor vehicle.

34 (2) (a) Except as otherwise provided in subsection (3),
35 upon conviction of any person for the first offense of violating
36 subsection (1) of this section where chemical tests provided for
37 under Section 63-11-5 were given, or where chemical test results
38 are not available, such person shall be fined not less than Two
39 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars
40 (\$1,000.00), or imprisoned for not more than forty-eight (48)
41 hours in jail or both; and the court shall order such person to
42 attend and complete an alcohol safety education program as
43 provided in Section 63-11-32. The court may substitute attendance
44 at a victim impact panel instead of forty-eight (48) hours in
45 jail. In addition, the Department of Public Safety, the
46 Commissioner of Public Safety or his duly authorized agent shall,
47 after conviction and upon receipt of the court abstract, suspend
48 the driver's license and driving privileges of such person for a
49 period of not less than ninety (90) days and until such person
50 attends and successfully completes an alcohol safety education
51 program as herein provided; provided, however, in no event shall
52 such period of suspension exceed one (1) year. Commercial driving
53 privileges shall be suspended as provided in Section 63-1-83.

54 The circuit court having jurisdiction in the county in which
55 the conviction was had or the circuit court of the person's county
56 of residence may reduce the suspension of driving privileges under
57 Section 63-11-30(2)(a) if the denial of which would constitute a
58 hardship on the offender, except that no court may issue such an
59 order reducing the suspension of driving privileges under this
60 subsection until thirty (30) days have elapsed from the effective
61 date of the suspension. Hardships shall only apply to first
62 offenses under Section 63-11-30(1), and shall not apply to second,
63 third or subsequent convictions of any person violating subsection
64 (1) of this section. A reduction of suspension on the basis of
65 hardship shall not be available to any person who refused to
66 submit to a chemical test upon the request of a law enforcement
67 officer as provided in Section 63-11-5. When the petition is
68 filed, such person shall pay to the circuit clerk of the court

69 where the petition is filed a fee of Fifty Dollars (\$50.00), which
70 shall be deposited into the State General Fund to the credit of a
71 special fund hereby created in the State Treasury to be used for
72 alcohol or drug abuse treatment and education, upon appropriation
73 by the Legislature. This fee shall be in addition to any other
74 court costs or fees required for the filing of petitions.

75 The petition filed under the provisions of this subsection
76 shall contain the specific facts which the petitioner alleges to
77 constitute a hardship and the driver's license number of the
78 petitioner. A hearing may be held on any petition filed under
79 this subsection only after ten (10) days' prior written notice to
80 the Commissioner of Public Safety, or his designated agent, or the
81 attorney designated to represent the state. At such hearing, the
82 court may enter an order reducing the period of suspension.

83 The order entered under the provisions of this subsection
84 shall contain the specific grounds upon which hardship was
85 determined, and shall order the petitioner to attend and complete
86 an alcohol safety education program as provided in Section
87 63-11-32. A certified copy of such order shall be delivered to
88 the Commissioner of Public Safety by the clerk of the court within
89 five (5) days of the entry of the order. The certified copy of
90 such order shall contain information which will identify the
91 petitioner, including, but not limited to, the name, mailing
92 address, street address, Social Security number and driver's
93 license number of the petitioner.

94 At any time following at least thirty (30) days of suspension
95 for a first offense violation of this section, the court may grant
96 the person hardship driving privileges upon written petition of
97 the defendant, if it finds reasonable cause to believe that
98 revocation would hinder the person's ability to:

- 99 (i) Continue his employment;
- 100 (ii) Continue attending school or an educational
101 institution; or
- 102 (iii) Obtain necessary medical care.

103 Proof of the hardship shall be established by clear and
104 convincing evidence which shall be supported by independent
105 documentation.

106 (b) Except as otherwise provided in subsection (3),
107 upon any second conviction of any person violating subsection (1)
108 of this section, the offenses being committed within a period of
109 five (5) years, such person shall be fined not less than Six
110 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred
111 Dollars (\$1,500.00) and shall be imprisoned not less than ten (10)
112 days nor more than one (1) year and sentenced to community service
113 work for not less than ten (10) days nor more than one (1) year.
114 Except as may otherwise be provided by paragraph (d) of this
115 subsection, the Commissioner of Public Safety shall suspend the
116 driver's license of such person for two (2) years. Suspension of
117 a commercial driver's license shall be governed by Section
118 63-1-83. Upon any second conviction as described in this
119 paragraph, the court shall ascertain whether the defendant is
120 married, and if the defendant is married shall obtain the name and
121 address of the defendant's spouse; the clerk of the court shall
122 submit this information to the Department of Public Safety.
123 Further, the commissioner shall notify in writing, by certified
124 mail, return receipt requested, the owner of the vehicle and the
125 spouse, if any, of the person convicted of the second violation of
126 the possibility of forfeiture of the vehicle if such person is
127 convicted of a third violation of subsection (1) of this section.

128 The owner of the vehicle and the spouse shall be considered
129 notified under this paragraph if the notice is deposited in the
130 United States mail and any claim that the notice was not in fact
131 received by the addressee shall not affect a subsequent forfeiture
132 proceeding.

133 (c) Except as otherwise provided in subsection (3), for
134 any third or subsequent conviction of any person violating
135 subsection (1) of this section, the offenses being committed
136 within a period of five (5) years, such person shall be guilty of

137 a felony and fined not less than Two Thousand Dollars (\$2,000.00)
138 nor more than Five Thousand Dollars (\$5,000.00) and shall be
139 imprisoned not less than one (1) year nor more than five (5) years
140 in the State Penitentiary. The law enforcement agency shall seize
141 the vehicle operated by any person charged with a third or
142 subsequent violation of subsection (1) of this section, if such
143 convicted person was driving the vehicle at the time the offense
144 was committed. Such vehicle may be forfeited in the manner
145 provided by Sections 63-11-49 through 63-11-53. Except as may
146 otherwise be provided by paragraph (e) of this subsection, the
147 Commissioner of Public Safety shall suspend the driver's license
148 of such person for five (5) years. The suspension of a commercial
149 driver's license shall be governed by Section 63-1-83.

150 (d) Except as otherwise provided in subsection (3), any
151 person convicted of a second violation of subsection (1) of this
152 section, may have the period that his driver's license is
153 suspended reduced if such person receives an in-depth diagnostic
154 assessment, and as a result of such assessment is determined to be
155 in need of treatment of his alcohol and/or drug abuse problem and
156 successfully completes treatment of his alcohol and/or drug abuse
157 problem at a program site certified by the Department of Mental
158 Health. Such person shall be eligible for reinstatement of his
159 driving privileges upon the successful completion of such
160 treatment after a period of one (1) year after such person's
161 driver's license is suspended. Each person who receives a
162 diagnostic assessment shall pay a fee representing the cost of
163 such assessment. Each person who participates in a treatment
164 program shall pay a fee representing the cost of such treatment.

165 (e) Except as otherwise provided in subsection (3), any
166 person convicted of a third or subsequent violation of subsection
167 (1) of this section may enter an alcohol and/or drug abuse program
168 approved by the Department of Mental Health for treatment of such
169 person's alcohol and/or drug abuse problem. If such person
170 successfully completes such treatment, such person shall be

171 eligible for reinstatement of his driving privileges after a
172 period of three (3) years after such person's driver's license is
173 suspended.

174 (3) (a) This subsection shall be known and may be cited as
175 Zero Tolerance for Minors. The provisions of this subsection
176 shall apply only when a person under the age of twenty-one (21)
177 years has a blood alcohol concentration two one-hundredths percent
178 (.02%) or more, but lower than eight one-hundredths percent
179 (.08%). If such person's blood alcohol concentration is eight
180 one-hundredths percent (.08%) or more, the provisions of
181 subsection (2) shall apply.

182 (b) Upon conviction of any person under the age of
183 twenty-one (21) years for the first offense of violating
184 subsection (1) of this section where chemical tests provided for
185 under Section 63-11-5 were given, or where chemical test results
186 are not available, such person shall have his driver's license
187 suspended for ninety (90) days and shall be fined Two Hundred
188 Fifty Dollars (\$250.00); and the court shall order such person to
189 attend and complete an alcohol safety education program as
190 provided in Section 63-11-32. The court may also require
191 attendance at a victim impact panel.

192 The circuit court having jurisdiction in the county in which
193 the conviction was had or the circuit court of the person's county
194 of residence may reduce the suspension of driving privileges under
195 Section 63-11-30(2)(a) if the denial of which would constitute a
196 hardship on the offender, except that no court may issue such an
197 order reducing the suspension of driving privileges under this
198 subsection until thirty (30) days have elapsed from the effective
199 date of the suspension. Hardships shall only apply to first
200 offenses under Section 63-11-30(1), and shall not apply to second,
201 third or subsequent convictions of any person violating subsection
202 (1) of this section. A reduction of suspension on the basis of
203 hardship shall not be available to any person who refused to
204 submit to a chemical test upon the request of a law enforcement

205 officer as provided in Section 63-11-5. When the petition is
206 filed, such person shall pay to the circuit clerk of the court
207 where the petition is filed a fee of Fifty Dollars (\$50.00), which
208 shall be deposited into the State General Fund to the credit of a
209 special fund hereby created in the State Treasury to be used for
210 alcohol or drug abuse treatment and education, upon appropriation
211 by the Legislature. This fee shall be in addition to any other
212 court costs or fees required for the filing of petitions.

213 The petition filed under the provisions of this subsection
214 shall contain the specific facts which the petitioner alleges to
215 constitute a hardship and the driver's license number of the
216 petitioner. A hearing may be held on any petition filed under
217 this subsection only after ten (10) days' prior written notice to
218 the Commissioner of Public Safety, or his designated agent, or the
219 attorney designated to represent the state. At such hearing, the
220 court may enter an order reducing the period of suspension.

221 The order entered under the provisions of this subsection
222 shall contain the specific grounds upon which hardship was
223 determined, and shall order the petitioner to attend and complete
224 an alcohol safety education program as provided in Section
225 63-11-32. A certified copy of such order shall be delivered to
226 the Commissioner of Public Safety by the clerk of the court within
227 five (5) days of the entry of the order. The certified copy of
228 such order shall contain information which will identify the
229 petitioner, including, but not limited to, the name, mailing
230 address, street address, Social Security number and driver's
231 license number of the petitioner.

232 At any time following at least thirty (30) days of suspension
233 for a first offense violation of this section, the court may grant
234 the person hardship driving privileges upon written petition of
235 the defendant, if it finds reasonable cause to believe that
236 revocation would hinder the person's ability to:

- 237 (i) Continue his employment;
- 238 (ii) Continue attending school or an educational

239 institution; or

240 (iii) Obtain necessary medical care.

241 Proof of the hardship shall be established by clear and
242 convincing evidence which shall be supported by independent
243 documentation.

244 (c) Upon any second conviction of any person under the
245 age of twenty-one (21) years violating subsection (1) of this
246 section, the offenses being committed within a period of five (5)
247 years, such person shall be fined not more than Five Hundred
248 Dollars (\$500.00) and shall have his driver's license suspended
249 for one (1) year.

250 (d) For any third or subsequent conviction of any
251 person under the age of twenty-one (21) years violating subsection
252 (1) of this section, the offenses being committed within a period
253 of five (5) years, such person shall be fined not more than One
254 Thousand Dollars (\$1,000.00) and shall have his driver's license
255 suspended until he reaches the age of twenty-one (21) or for two
256 (2) years, whichever is longer.

257 (e) Any person under the age of twenty-one (21) years
258 convicted of a second violation of subsection (1) of this section,
259 may have the period that his driver's license is suspended reduced
260 if such person receives an in-depth diagnostic assessment, and as
261 a result of such assessment is determined to be in need of
262 treatment of his alcohol and/or drug abuse problem and
263 successfully completes treatment of his alcohol and/or drug abuse
264 problem at a program site certified by the Department of Mental
265 Health. Such person shall be eligible for reinstatement of his
266 driving privileges upon the successful completion of such
267 treatment after a period of six (6) months after such person's
268 driver's license is suspended. Each person who receives a
269 diagnostic assessment shall pay a fee representing the cost of
270 such assessment. Each person who participates in a treatment
271 program shall pay a fee representing the cost of such treatment.

272 (f) Any person under the age of twenty-one (21) years

273 convicted of a third or subsequent violation of subsection (1) of
274 this section shall complete treatment of an alcohol and/or drug
275 abuse program at a site certified by the Department of Mental
276 Health.

277 (g) The court shall have the discretion to rule that a
278 first offense of this subsection by a person under the age of
279 twenty-one (21) years shall be nonadjudicated. Such person shall
280 be eligible for nonadjudication only once. The Department of
281 Public Safety shall maintain a confidential registry of all cases
282 which are nonadjudicated as provided in this paragraph. A judge
283 who rules that a case is nonadjudicated shall forward such ruling
284 to the Department of Public Safety. Judges and prosecutors
285 involved in implied consent violations shall have access to the
286 confidential registry for the purpose of determining
287 nonadjudication eligibility. A record of a person who has been
288 nonadjudicated shall be maintained for five (5) years or until
289 such person reaches the age of twenty-one (21) years. Any person
290 whose confidential record has been disclosed in violation of this
291 paragraph shall have a civil cause of action against the person
292 and/or agency responsible for such disclosure.

293 (4) Every person convicted of operating a vehicle while
294 under the influence of intoxicating liquor or any other substance
295 which has impaired such person's ability to operate a motor
296 vehicle where the person (a) refused a law enforcement officer's
297 request to submit to a chemical test of his breath as provided in
298 this chapter, or (b) was unconscious at the time of a chemical
299 test and refused to consent to the introduction of the results of
300 such test in any prosecution, shall be punished consistent with
301 the penalties prescribed herein for persons submitting to the
302 test, except that there shall be an additional suspension of
303 driving privileges as follows:

304 The Commissioner of Public Safety or his authorized agent
305 shall suspend the driver's license or permit to drive or deny the
306 issuance of a license or permit to such person as provided for

307 first, second and third or subsequent offenders in subsection (2)
308 of this section. Such suspension shall be in addition to any
309 suspension imposed pursuant to subsection (1) of Section 63-11-23.

310 (5) Every person who operates any motor vehicle in violation
311 of the provisions of subsection (1) of this section and who in a
312 negligent manner causes the death of another or mutilates,
313 disfigures, permanently disables or destroys the tongue, eye, lip,
314 nose or any other limb, organ or member of another shall, upon
315 conviction, be guilty of a felony and shall be committed to the
316 custody of the State Department of Corrections for a period of
317 time not to exceed twenty-five (25) years.

318 (6) Upon conviction of any violation of subsection (1) of
319 this section, the trial judge shall sign in the place provided on
320 the traffic ticket, citation or affidavit stating that the person
321 arrested either employed an attorney or waived his right to an
322 attorney after having been properly advised. If the person
323 arrested employed an attorney, the name, address and telephone
324 number of the attorney shall be written on the ticket, citation or
325 affidavit. The judge shall cause a copy of the traffic ticket,
326 citation or affidavit, and any other pertinent documents
327 concerning the conviction, to be sent to the Commissioner of
328 Public Safety. A copy of the traffic ticket, citation or
329 affidavit and any other pertinent documents, having been attested
330 as true and correct by the Commissioner of Public Safety, or his
331 designee, shall be sufficient proof of the conviction for purposes
332 of determining the enhanced penalty for any subsequent convictions
333 of violations of subsection (1) of this section.

334 (7) Convictions in other states of violations for driving or
335 operating a vehicle while under the influence of an intoxicating
336 liquor or while under the influence of any other substance that
337 has impaired the person's ability to operate a motor vehicle
338 occurring after July 1, 1992, shall be counted for the purposes of
339 determining if a violation of subsection (1) of this section is a
340 first, second, third or subsequent offense and the penalty that

341 shall be imposed upon conviction for a violation of subsection (1)
342 of this section.

343 (8) For the purposes of determining how to impose the
344 sentence for a second, third or subsequent conviction under this
345 section, the indictment shall not be required to enumerate
346 previous convictions. It shall only be necessary that the
347 indictment state the number of times that the defendant has been
348 convicted and sentenced within the past five (5) years under this
349 section to determine if an enhanced penalty shall be imposed. The
350 amount of fine and imprisonment imposed in previous convictions
351 shall not be considered in calculating offenses to determine a
352 second, third or subsequent offense of this section.

353 (9) Any person under the legal age to obtain a license to
354 operate a motor vehicle convicted under this section shall not be
355 eligible to receive such license until the person reaches the age
356 of eighteen (18) years.

357 (10) Suspension of driving privileges for any person
358 convicted of violations of Section 63-11-30(1) shall run
359 consecutively.

360 (11) The judge in any conviction under this section shall
361 punch the driver's license of each person convicted with a
362 distinctive punch to be designed by the Department of Public
363 Safety which designates such person as an implied consent
364 offender. The driver's license of such person shall bear the
365 punch for the period of the sentence. No person with a driver's
366 license which has been punched as provided by this subsection
367 shall be allowed to purchase any alcoholic beverages during the
368 period of their sentence.

369 SECTION 2. Section 67-1-83, Mississippi Code of 1972, is
370 amended as follows:

371 67-1-83. (1) It shall be unlawful for any permittee or
372 other person to sell or furnish any alcoholic beverage to any
373 person who is known to be insane or mentally defective, or to any
374 person who is visibly intoxicated, or to any person who is known

375 to habitually drink alcoholic beverages to excess, or to any
376 person who is known to be an habitual user of narcotics or other
377 habit-forming drugs. It shall also be unlawful for the holder of
378 any package retailer's permit to sell any alcoholic beverages
379 except by delivery in person to the purchaser at the place of
380 business of the permittee.

381 (2) It shall be unlawful for any permittee or other person
382 to sell or furnish any alcoholic beverage to any person to whom
383 the commission has, after investigation, decided to prohibit the
384 sale of such beverages because of an appeal to the commission so
385 to do by the husband, wife, father, mother, brother, sister,
386 child, or employer of such person. The interdiction in such cases
387 shall last until removed by the commission, but no person shall be
388 held to have violated this subsection unless he has been informed
389 by the commission, by registered letter, that it is forbidden to
390 sell to such individual or unless such fact is otherwise known to
391 such permittee or other person.

392 (3) It shall be unlawful for any holder of a package
393 retailer's permit, or any employee or agent thereof, engaged
394 solely in the business of package retail sales under this chapter
395 to sell or furnish any alcoholic beverage before 10:00 a.m. and
396 after 10:00 p.m. or to sell alcoholic beverages on Sunday and
397 Christmas Day.

398 (4) Any person who shall violate any of the provisions of
399 this section shall be guilty of a misdemeanor and, upon
400 conviction, shall be punished by a fine of not more than Five
401 Hundred Dollars (\$500.00) or by imprisonment in the county jail
402 for a term of not more than six (6) months or by both such fine
403 and imprisonment, in the discretion of the court. In addition,
404 the commission shall forthwith revoke the permit of any permittee
405 who violates the provisions of this section.

406 (5) It shall be unlawful to sell any alcoholic beverage to
407 any person convicted of a violation of Section 63-11-30. Persons
408 selling alcoholic beverages shall examine the driver's license of

409 all persons purchasing alcoholic beverages to determine if the
410 distinctive punch as provided in Section 63-11-30(10) is on such
411 person's driver's license.

412 SECTION 3. Section 67-3-53, Mississippi Code of 1972, is
413 amended as follows:

414 67-3-53. In addition to any act declared to be unlawful by
415 this chapter, or by Sections 27-71-301 through 27-71-347, and
416 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be
417 unlawful for the holder of a permit authorizing the sale of beer
418 or light wine at retail or for the employee of the holder of such
419 a permit:

420 (a) To sell or give to be consumed in or upon any
421 licensed premises any beer or light wine between the hours of
422 midnight and seven o'clock the following morning or during any
423 time the licensed premises may be required to be closed by
424 municipal ordinance or order of the board of supervisors;
425 provided, however, in areas where the sale of alcoholic beverages
426 is legal under the provisions of the Local Option Alcoholic
427 Beverage Control Law and the hours for selling such alcoholic
428 beverages have been extended beyond midnight for on-premises
429 permittees under Section 67-1-37, the hours for selling beer or
430 light wines are likewise extended in areas where the sale of beer
431 and light wines is legal in accordance with the provisions of this
432 chapter.

433 (b) To sell, give or furnish any beer or light wine to
434 any person visibly or noticeably intoxicated, or to any insane
435 person, or to any habitual drunkard, or to any person under the
436 age of twenty-one (21) years.

437 (c) To permit in the premises any lewd, immoral or
438 improper entertainment, conduct or practices.

439 (d) To permit loud, boisterous or disorderly conduct of
440 any kind upon the premises or to permit the use of loud musical
441 instruments if either or any of the same may disturb the peace and
442 quietude of the community wherein such business is located.

443 (e) To permit persons of ill repute, known criminals,
444 prostitutes or minors to frequent the licensed premises, except
445 minors accompanied by parents or guardians, or under proper
446 supervision.

447 (f) To permit or suffer illegal gambling or the
448 operation of illegal games of chance upon the licensed premises.

449 (g) To receive, possess or sell on the licensed
450 premises any beverage of any kind or character containing more
451 than five percent (5%) of alcohol by weight unless the licensee
452 also possesses an on-premises permit under the Local Option
453 Alcoholic Beverage Control Law.

454 (h) To sell any beer or light wine to a person
455 convicted of a violation of Section 63-11-30. Persons selling
456 beer or light wine shall examine the driver's license of all
457 persons purchasing beer or light wine to determine if the
458 distinctive punch as provided in Section 63-11-30(10) is on such
459 person's driver's license.

460 SECTION 4. Section 67-3-69, Mississippi Code of 1972, is
461 amended as follows:

462 **[Through June 30, 2000, this section shall read as follows:]**

463 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
464 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
465 this chapter or of any rule or regulation of the commissioner,
466 shall be a misdemeanor and, where the punishment therefor is not
467 elsewhere prescribed herein, shall be punished by a fine of not
468 more than Five Hundred Dollars (\$500.00) or imprisonment for not
469 more than six (6) months, or both, in the discretion of the court.
470 If any person so convicted shall be the holder of any permit or
471 license issued by the commissioner under authority of this
472 chapter, such permit or license shall from and after the date of
473 such conviction be void and the holder thereof shall not
474 thereafter, for a period of one (1) year from the date of such
475 conviction, be entitled to any permit or license for any purpose
476 authorized by this chapter. Upon conviction of the holder of any

477 permit or license, the appropriate law enforcement officer shall
478 seize the permit or license and transmit it to the commissioner.

479 (2) (a) Any person who shall violate any provision of
480 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a
481 misdemeanor, and upon conviction thereof shall be punished by a
482 fine of not more than Five Hundred Dollars (\$500.00) or by
483 imprisonment in the county jail for not more than six (6) months,
484 or by both such fine and imprisonment, in the discretion of the
485 court.

486 (b) Any person who shall violate any provision of
487 Section 67-3-57 shall be guilty of a misdemeanor, and upon
488 conviction thereof, shall be punished by a fine of not more than
489 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
490 jail for not more than one (1) year, or by both, in the discretion
491 of the court. Any person convicted of violating any provision of
492 the sections referred to in this subsection shall forfeit his
493 permit, and shall not thereafter be permitted to engage in any
494 business taxable under the provisions of Sections 27-71-301
495 through 27-71-347.

496 (3) If the holder of a permit, or the employee of the holder
497 of a permit, shall be convicted of selling any beer or wine to any
498 person under the age of twenty-one (21) years from the licensed
499 premises in violation of Section 67-3-53(b), or to a person
500 convicted of a violation of Section 63-11-30 in violation of
501 Section 67-3-53(h) then, in addition to any other penalty provided
502 for by law, the holder of the permit may be punished as follows:

503 (a) For the first offense on the licensed premises, the
504 holder of the permit may be fined in an amount not to exceed Five
505 Hundred Dollars (\$500.00) and/or the sale of beer or wine on the
506 premises from which the sale occurred may be prohibited for three
507 (3) months.

508 (b) For a second offense occurring on the licensed
509 premises within twelve (12) months of the first offense, the
510 holder of the permit may be fined in an amount not to exceed One

511 Thousand Dollars (\$1,000.00) and/or the sale of beer or wine on
512 the premises from which the sale occurred may be prohibited for
513 six (6) months.

514 (c) For a third or subsequent offense occurring on the
515 licensed premises within twelve (12) months of the first, the
516 holder of the permit may be fined in an amount not to exceed Five
517 Thousand Dollars (\$5,000.00) and/or the sale of beer or wine on
518 the premises from which the sale occurred may be prohibited for
519 one (1) year.

520 (4) A person who sells any beer or wine to a person under
521 the age of twenty-one (21) years shall not be guilty of a
522 violation of Section 67-3-53(b) if the person under the age of
523 twenty-one (21) years represents himself to be twenty-one (21)
524 years of age or older by displaying an apparently valid
525 Mississippi driver's license containing a physical description
526 consistent with his appearance or by displaying some other
527 apparently valid identification document containing a picture and
528 physical description consistent with his appearance for the
529 purpose of inducing the person to sell beer or wine to him.

530 (5) If the holder of a permit to operate a brewpub is
531 convicted of violating the provisions of Section 67-3-22(3), then,
532 in addition to any other provision provided for by law, the holder
533 of the permit shall be punished as follows:

534 (a) For the first offense, the holder of a permit to
535 operate a brewpub may be fined in an amount not to exceed Five
536 Hundred Dollars (\$500.00).

537 (b) For a second offense occurring within twelve (12)
538 months of the first offense, the holder of a permit to operate a
539 brewpub may be fined an amount not to exceed One Thousand Dollars
540 (\$1,000.00).

541 (c) For a third or subsequent offense occurring within
542 twelve (12) months of the first offense, the holder of a permit to
543 operate a brewpub may be fined an amount not to exceed Five
544 Thousand Dollars (\$5,000.00) and the permit to operate a brewpub

545 shall be suspended for thirty (30) days.

546 **[From and after July 1, 2000, this section shall read as**
547 **follows:]**

548 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
549 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
550 this chapter or of any rule or regulation of the commissioner,
551 shall be a misdemeanor and, where the punishment therefor is not
552 elsewhere prescribed herein, shall be punished by a fine of not
553 more than Five Hundred Dollars (\$500.00) or imprisonment for not
554 more than six (6) months, or both, in the discretion of the court.

555 If any person so convicted shall be the holder of any permit or
556 license issued by the commissioner under authority of this
557 chapter, such permit or license shall from and after the date of
558 such conviction be void and the holder thereof shall not
559 thereafter, for a period of one (1) year from the date of such
560 conviction, be entitled to any permit or license for any purpose
561 authorized by this chapter. Upon conviction of the holder of any
562 permit or license, the appropriate law enforcement officer shall
563 seize the permit or license and transmit it to the commissioner.

564 (2) Any person who shall violate any provision of Section
565 67-3-17, 67-3-23, 67-3-27, 67-3-55 or 67-3-57 shall be guilty of a
566 misdemeanor, and upon conviction thereof shall be punished by a
567 fine of not more than Five Hundred Dollars (\$500.00) or by
568 imprisonment in the county jail for not more than six (6) months,
569 or by both such fine and imprisonment, in the discretion of the
570 court. Any person convicted of violating any provision of said
571 sections shall forfeit his permit, and shall not thereafter be
572 permitted to engage in any business taxable under the provisions
573 of Sections 27-71-301 through 27-71-347.

574 (3) If the holder of a permit, or the employee of the holder
575 of a permit, shall be convicted of selling any beer or wine to any
576 person under the age of twenty-one (21) years from the licensed
577 premises in violation of Section 67-3-53(b), or to a person
578 convicted of a violation of Section 63-11-30 in violation of

579 Section 67-3-53(h), then, in addition to any other penalty
580 provided for by law, the holder of the permit may be punished as
581 follows:

582 (a) For the first offense on the licensed premises, the
583 holder of the permit may be fined in an amount not to exceed Five
584 Hundred Dollars (\$500.00) and/or the sale of beer or wine on the
585 premises from which the sale occurred may be prohibited for three
586 (3) months.

587 (b) For a second offense occurring on the licensed
588 premises within twelve (12) months of the first offense, the
589 holder of the permit may be fined in an amount not to exceed One
590 Thousand Dollars (\$1,000.00) and/or the sale of beer or wine on
591 the premises from which the sale occurred may be prohibited for
592 six (6) months.

593 (c) For a third or subsequent offense occurring on the
594 licensed premises within twelve (12) months of the first, the
595 holder of the permit may be fined in an amount not to exceed Five
596 Thousand Dollars (\$5,000.00) and/or the sale of beer or wine on
597 the premises from which the sale occurred may be prohibited for
598 one (1) year.

599 (4) A person who sells any beer or wine to a person under
600 the age of twenty-one (21) years shall not be guilty of a
601 violation of Section 67-3-53(b) if the person under the age of
602 twenty-one (21) years represents himself to be twenty-one (21)
603 years of age or older by displaying an apparently valid
604 Mississippi driver's license containing a physical description
605 consistent with his appearance or by displaying some other
606 apparently valid identification document containing a picture and
607 physical description consistent with his appearance for the
608 purpose of inducing the person to sell beer or wine to him.

609 (5) If the holder of a permit to operate a brewpub is
610 convicted of violating the provisions of Section 67-3-22(3), then,
611 in addition to any other provision provided for by law, the holder
612 of the permit shall be punished as follows:

613 (a) For the first offense, the holder of a permit to
614 operate a brewpub may be fined in an amount not to exceed Five
615 Hundred Dollars (\$500.00).

616 (b) For a second offense occurring within twelve (12)
617 months of the first offense, the holder of a permit to operate a
618 brewpub may be fined an amount not to exceed One Thousand Dollars
619 (\$1,000.00).

620 (c) For a third or subsequent offense occurring within
621 twelve (12) months of the first offense, the holder of a permit to
622 operate a brewpub may be fined an amount not to exceed Five
623 Thousand Dollars (\$5,000.00) and the permit to operate a brewpub
624 shall be suspended for thirty (30) days.

625 SECTION 5. Section 67-3-70, Mississippi Code of 1972, is
626 amended as follows:

627 67-3-70. (1) Except as otherwise provided by Section
628 67-3-54, any person under the age of twenty-one (21) years who
629 purchases or possesses any light wine or beer shall be guilty of a
630 misdemeanor, and upon conviction shall be punished by a fine of
631 not less than Twenty-five Dollars (\$25.00) nor more than Five
632 Hundred Dollars (\$500.00) and/or a sentence to not more than
633 thirty (30) days community service.

634 (2) Any person under the age of twenty-one (21) years who
635 falsely states he is twenty-one (21) years of age or older or
636 presents any document that indicates he is twenty-one (21) years
637 of age or older for the purpose of purchasing or possessing any
638 light wine or beer shall be guilty of a misdemeanor, and upon
639 conviction shall be punished by a fine of not less than
640 Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars
641 (\$500.00) and/or a sentence to not more than thirty (30) days
642 community service.

643 (3) Except as otherwise provided by Section 67-3-54, any
644 person who knowingly purchases light wine or beer for, or gives or
645 makes available light wine or beer to a person under the age of
646 twenty-one (21) years, or who violates the provisions of Section

647 67-3-53(h), shall be guilty of a misdemeanor and upon conviction
648 shall be punished by a fine of not less than One Hundred Dollars
649 (\$100.00) nor more than Five Hundred Dollars (\$500.00) and/or a
650 sentence to not more than thirty (30) days' community service.

651 (4) The term "community service" as used in this section
652 shall mean work, projects or services for the benefit of the
653 community assigned, supervised and recorded by appropriate public
654 officials.

655 (5) Any person who has been charged with a violation of
656 subsections (1) or (2) of this section may, not sooner than one
657 (1) year after the dismissal and discharge or completion of any
658 sentence and/or payment of any fine, apply to the court for an
659 order to expunge from all official records all recordation
660 relating to his arrest, trial, finding or plea of guilty, and
661 dismissal and discharge. If the court determines that such person
662 was dismissed and the proceedings against him discharged or that
663 such person had satisfactorily served his sentence and/or paid his
664 fine, it shall enter such order.

665 SECTION 6. This act shall take effect and be in force from
666 and after July 1, 1999.