

By: Robinson (84th)

To: Ways and Means

HOUSE BILL NO. 316

1 AN ACT TO AMEND SECTION 67-3-17, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE FEES CHARGED FOR PERMITS TO SELL BEER AND LIGHT  
3 WINE SHALL BE THE EQUAL TO THE FEES CHARGED FOR ALCOHOLIC  
4 BEVERAGES; TO AMEND SECTION 67-3-35, MISSISSIPPI CODE OF 1972, TO  
5 PROVIDE THAT A COURT ENTERING A JUDGEMENT TO SUSPEND OR REVOKE A  
6 PERMIT TO SELL BEER OR WINE SHALL FORWARD THE ORDER TO THE  
7 COMMISSIONER NO LATER THAN THE NEXT DAY AFTER THE JUDGEMENT WAS  
8 ENTERED; TO AMEND SECTION 67-1-81, MISSISSIPPI CODE OF 1972, TO  
9 PROVIDE THAT IF A PERMITTEE LOSES HIS PERMIT TO SELL ALCOHOLIC  
10 BEVERAGES DUE TO SELLING ALCOHOLIC BEVERAGES TO A PERSON UNDER  
11 TWENTY-ONE YEARS OF AGE, A MEMBER OF HIS IMMEDIATE FAMILY SHALL  
12 NOT BE ALLOWED TO OBTAIN A PERMIT TO SELL ALCOHOLIC BEVERAGES; TO  
13 PROVIDE THAT ANY PERSON WHO FALSELY STATES HE IS TWENTY-ONE FOR  
14 THE PURPOSE OF PURCHASING ALCOHOLIC BEVERAGES SHALL BE FINED NOT  
15 LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS;  
16 TO AMEND SECTION 67-3-70, MISSISSIPPI CODE OF 1972, TO PROVIDE  
17 THAT ANY PERSON WHO FALSELY STATES HE IS TWENTY-ONE FOR THE  
18 PURPOSE OF PURCHASING BEER OR LIGHT WINE SHALL BE FINED NOT LESS  
19 THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS; TO  
20 PROVIDE THAT ANY PERSON WHO PURCHASES BEER OR LIGHT WINE FOR ANY  
21 PERSON UNDER TWENTY-ONE YEARS OF AGE SHALL BE FINED NOT LESS THAN  
22 FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS; TO AMEND  
23 SECTION 67-3-69, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A  
24 PERMITTEE LOSES HIS PERMIT TO SELL ALCOHOLIC BEVERAGES DUE TO  
25 SELLING ALCOHOLIC BEVERAGES TO A PERSON UNDER TWENTY-ONE YEARS OF  
26 AGE, A MEMBER OF HIS IMMEDIATE FAMILY SHALL NOT BE ALLOWED TO  
27 OBTAIN A PERMIT TO SELL ALCOHOLIC BEVERAGES; AND FOR RELATED  
28 PURPOSES.

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

30 SECTION 1. Section 67-3-17, Mississippi Code of 1972, is  
31 amended as follows:

32 67-3-17. Any person desiring to engage in any business  
33 taxable under Sections 27-71-303 through 27-71-317, Mississippi  
34 Code of 1972, either as a retailer, or as a wholesaler or

35 distributor, or as a manufacturer, of light wines or beer, shall  
36 file with the commissioner an application for a permit allowing  
37 him to engage in such business. The application for a permit  
38 shall be filed on a blank to be furnished by the commissioner for  
39 that purpose, and shall contain a statement showing the name of  
40 the business, and if a partnership, firm or association, the name  
41 of each partner or member, and if a corporation the names of two  
42 (2) principal officers, the post office address, and the nature of  
43 business in which engaged. In case any business is conducted at  
44 two (2) or more separate places, a separate permit for each place  
45 of business shall be required.

46 The applicant, at the time of filing such application for a  
47 permit or license to engage in such business, shall also file with  
48 the commissioner an oath, duly subscribed and sworn to by him  
49 before an officer authorized to administer oaths, that he will not  
50 allow any intoxicating liquor as defined by this chapter,  
51 including beer, wine and distilled spirits, or alcoholic, malt, or  
52 vinous liquors including beer and wine, having an alcoholic  
53 content of more than five percent (5%) by weight, to be kept,  
54 stored or secreted in or on the premises described in such permit  
55 or license, and that the applicant will not otherwise violate any  
56 law of this state, or knowingly allow any other person to violate  
57 any such law, while in or on such premises.

58 Each application or filing made under this section shall  
59 include the Social Security number(s) of the applicant in  
60 accordance with Section 93-11-64, Mississippi Code of 1972.

61 The fees charged to persons submitting an application for a  
62 permit pursuant to this section shall be equal to the fees charged  
63 for applications for permits to sell alcoholic beverages pursuant  
64 to Section 67-1-51.

65 SECTION 2. Section 67-3-35, Mississippi Code of 1972, is

66 amended as follows:

67           67-3-35. The complaint shall be heard by the court without a  
68 jury. If the court shall find upon the hearing that the offense  
69 or offenses charged in the complaint have been established by the  
70 evidence, the court shall order the revocation or suspension of  
71 the permit. If the court finds that the permittee has not  
72 previously violated the law in the operation of his licensed  
73 business, and that no permit or license held by him has previously  
74 been suspended or revoked, and if it appears to the satisfaction  
75 of the court that there is reasonable ground to expect that the  
76 permittee will not again commit the offense or offenses charged in  
77 the complaint and that to revoke the permit would be unduly  
78 severe, then the court may suspend the permit for such period of  
79 time as the court deems proper. However, if the permittee has  
80 previously had his permit suspended or revoked, it shall be  
81 mandatory upon the court upon a finding of guilty to revoke the  
82 said permit. The judgment of the court revoking or suspending  
83 such permit shall not be superseded or stayed during the pendency  
84 of an appeal therefrom. A certified copy of the final order or  
85 decree of the court shall be forwarded by the clerk of the court  
86 to the commissioner, no later than next day after the judgment was  
87 entered.

88           After the filing of a complaint with the clerk of the court  
89 for the revocation or suspension of a permit, the court in which  
90 the complaint is filed shall retain jurisdiction to hear and  
91 determine such complaint and to enter judgment revoking or  
92 suspending such permit. For the purpose of such hearing and as to  
93 the effect of the judgment of the court entered pursuant thereto,

94 the permit shall be in full force and effect even though the  
95 permittee, after filing of such complaint, may have surrendered  
96 his permit, or such permit may have expired, or the rights of the  
97 permittee thereunder may have otherwise terminated. It is the  
98 purpose of this section to preclude the permittee from avoiding  
99 the effect of a judgment of revocation by a court by reason of  
100 conditions arising subsequent to the filing of a complaint.

101 SECTION 3. Section 67-1-81, Mississippi Code of 1972, is  
102 amended as follows:

103 67-1-81. Any permittee or other person who shall sell,  
104 furnish, dispose of, give, or cause to be sold, furnished,  
105 disposed of, or given, any alcoholic beverage to any person under  
106 the age of twenty-one (21) years shall be guilty of a misdemeanor  
107 and shall be punished by a fine of not less than Five Hundred  
108 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)  
109 for a first offense. For a second or subsequent offense, such  
110 permittee or other person shall be punished by a fine of not less  
111 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand  
112 Dollars (\$2,000.00), or by imprisonment for not more than one (1)  
113 year, or by both such fine and imprisonment in the discretion of  
114 the court. Upon conviction of a second offense under the  
115 provisions of this section the permit of any permittee so  
116 convicted shall be automatically and permanently revoked. If a  
117 person loses his permit to sell beer and light wine because of  
118 selling these substances to persons under twenty-one (21) years of  
119 age, members of his immediate family shall not be allowed to  
120 obtain a permit as provided in Section 67-3-17. For the purposes  
121 of this section, "family member" includes the wife or child of the

122 holder of the permit.

123 Any person under the age of twenty-one (21) years who  
124 purchases, receives, or has in his or her possession in any public  
125 place, any alcoholic beverages, shall be guilty of a misdemeanor  
126 and shall be punished by a fine of not more than One Hundred  
127 Dollars (\$100.00). Provided, that clearing or busing tables that  
128 have glasses or other containers that contain or did contain  
129 alcoholic beverages, or stocking, bagging or otherwise handling  
130 purchases of alcoholic beverages shall not be deemed possession of  
131 alcoholic beverages for the purposes of this section. Provided  
132 further, that a person who is at least eighteen (18) years of age  
133 but under the age of twenty-one (21) years who waits on tables by  
134 taking orders for or delivering orders of alcoholic beverages  
135 shall not be deemed to unlawfully possess or furnish alcoholic  
136 beverages if in the scope of his employment by the holder of an  
137 on-premises retailer's permit. This exception shall not authorize  
138 a person under the age of twenty-one (21) to tend bar or act in  
139 the capacity of bartender. Any person under the age of twenty-one  
140 (21) who knowingly makes a false statement to the effect that he  
141 or she is twenty-one (21) years old or older to any person engaged  
142 in the sale of alcoholic beverages for the purpose of obtaining  
143 the same shall be guilty of a misdemeanor and shall be punished by  
144 a fine of not more than Five Hundred Dollars (\$500.00) nor more  
145 than One Thousand Dollars (\$1,000.00), and on failure to pay such  
146 fine and all costs shall be imprisoned for not less than five (5)  
147 nor more than thirty (30) days in the county jail.

148 SECTION 4. Section 67-3-70, Mississippi Code of 1972, is  
149 amended as follows:

150           67-3-70. (1) Except as otherwise provided by Section  
151 67-3-54, any person under the age of twenty-one (21) years who  
152 purchases or possesses any light wine or beer shall be guilty of a  
153 misdemeanor, and upon conviction shall be punished by a fine of  
154 not less than Twenty-five Dollars (\$25.00) nor more than Five  
155 Hundred Dollars (\$500.00) and/or a sentence to not more than  
156 thirty (30) days community service.

157           (2) Any person under the age of twenty-one (21) years who  
158 falsely states he is twenty-one (21) years of age or older or  
159 presents any document that indicates he is twenty-one (21) years  
160 of age or older for the purpose of purchasing or possessing any  
161 light wine or beer shall be guilty of a misdemeanor, and upon  
162 conviction shall be punished by a fine of not less than Five  
163 Hundred Dollars (\$500.00) nor more than One Thousand Dollars  
164 (\$1,000.00) and/or a sentence to not more than thirty (30) days  
165 community service.

166           (3) Except as otherwise provided by Section 67-3-54, any  
167 person who knowingly purchases light wine or beer for, or gives or  
168 makes available light wine or beer to a person under the age of  
169 twenty-one (21) years, shall be guilty of a misdemeanor and upon  
170 conviction shall be punished by a fine of not less than Five  
171 Hundred Dollars (\$500.00) nor more than One Thousand Dollars  
172 (\$1,000.00) and/or a sentence to not more than thirty (30) days'  
173 community service.

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

178           (5) Any person who has been charged with a violation of  
179 subsections (1) or (2) of this section may, not sooner than one  
180 (1) year after the dismissal and discharge or completion of any  
181 sentence and/or payment of any fine, apply to the court for an  
182 order to expunge from all official records all recordation  
183 relating to his arrest, trial, finding or plea of guilty, and  
184 dismissal and discharge. If the court determines that such person  
185 was dismissed and the proceedings against him discharged or that  
186 such person had satisfactorily served his sentence and/or paid his  
187 fine, it shall enter such order.

188           SECTION 5. Section 67-3-69, Mississippi Code of 1972, is  
189 amended as follows:

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

191           67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,  
192 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of  
193 this chapter or of any rule or regulation of the commissioner,  
194 shall be a misdemeanor and, where the punishment therefor is not  
195 elsewhere prescribed herein, shall be punished by a fine of not  
196 more than Five Hundred Dollars (\$500.00) or imprisonment for not  
197 more than six (6) months, or both, in the discretion of the court.  
198 If any person so convicted shall be the holder of any permit or  
199 license issued by the commissioner under authority of this  
200 chapter, such permit or license shall from and after the date of  
201 such conviction be void and the holder thereof shall not  
202 thereafter, for a period of one (1) year from the date of such  
203 conviction, be entitled to any permit or license for any purpose  
204 authorized by this chapter. Upon conviction of the holder of any  
205 permit or license, the appropriate law enforcement officer shall

206 seize the permit or license and transmit it to the commissioner.

207       (2) (a) Any person who shall violate any provision of  
208 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a  
209 misdemeanor, and upon conviction thereof shall be punished by a  
210 fine of not more than Five Hundred Dollars (\$500.00) or by  
211 imprisonment in the county jail for not more than six (6) months,  
212 or by both such fine and imprisonment, in the discretion of the  
213 court.

214       (b) Any person who shall violate any provision of  
215 Section 67-3-57 shall be guilty of a misdemeanor, and upon  
216 conviction thereof, shall be punished by a fine of not more than  
217 One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
218 jail for not more than one (1) year, or by both, in the discretion  
219 of the court. Any person convicted of violating any provision of  
220 the sections referred to in this subsection shall forfeit his  
221 permit, and shall not thereafter be permitted to engage in any  
222 business taxable under the provisions of Sections 27-71-301  
223 through 27-71-347.

224       (3) If the holder of a permit, or the employee of the holder  
225 of a permit, shall be convicted of selling any beer or wine to any  
226 person under the age of twenty-one (21) years from the licensed  
227 premises in violation of Section 67-3-53(b), then, in addition to  
228 any other penalty provided for by law, the holder of the permit  
229 may be punished as follows:

230       (a) For the first offense on the licensed premises, the  
231 holder of the permit may be fined in an amount not to exceed Five  
232 Hundred Dollars (\$500.00) and/or the sale of beer or wine on the  
233 premises from which the sale occurred may be prohibited for three



234 (3) months.

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

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

247 If a person loses his permit to sell beer or wine because of  
248 selling these substances to persons under twenty-one (21) years of  
249 age, members of his immediate family shall not be allowed to  
250 obtain a permit as provided in Section 67-3-17. For the purposes  
251 of this section, "family member" includes the spouse or child of  
252 the holder of the permit.

253 (4) A person who sells any beer or wine to a person under  
254 the age of twenty-one (21) years shall not be guilty of a  
255 violation of Section 67-3-53(b) if the person under the age of  
256 twenty-one (21) years represents himself to be twenty-one (21)  
257 years of age or older by displaying an apparently valid  
258 Mississippi driver's license containing a physical description  
259 consistent with his appearance or by displaying some other  
260 apparently valid identification document containing a picture and  
261 physical description consistent with his appearance for the

262 purpose of inducing the person to sell beer or wine to him.

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

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

270 (b) For a second offense occurring within twelve (12)  
271 months of the first offense, the holder of a permit to operate a  
272 brewpub may be fined an amount not to exceed One Thousand Dollars  
273 (\$1,000.00).

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

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

281 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,  
282 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of  
283 this chapter or of any rule or regulation of the commissioner,  
284 shall be a misdemeanor and, where the punishment therefor is not  
285 elsewhere prescribed herein, shall be punished by a fine of not  
286 more than Five Hundred Dollars (\$500.00) or imprisonment for not  
287 more than six (6) months, or both, in the discretion of the court.

288 If any person so convicted shall be the holder of any permit or  
289 license issued by the commissioner under authority of this

290 chapter, such permit or license shall from and after the date of  
291 such conviction be void and the holder thereof shall not  
292 thereafter, for a period of one (1) year from the date of such  
293 conviction, be entitled to any permit or license for any purpose  
294 authorized by this chapter. Upon conviction of the holder of any  
295 permit or license, the appropriate law enforcement officer shall  
296 seize the permit or license and transmit it to the commissioner.

297 (2) Any person who shall violate any provision of Section  
298 67-3-17, 67-3-23, 67-3-27, 67-3-55 or 67-3-57 shall be guilty of a  
299 misdemeanor, and upon conviction thereof shall be punished by a  
300 fine of not more than Five Hundred Dollars (\$500.00) or by  
301 imprisonment in the county jail for not more than six (6) months,  
302 or by both such fine and imprisonment, in the discretion of the  
303 court. Any person convicted of violating any provision of said  
304 sections shall forfeit his permit, and shall not thereafter be  
305 permitted to engage in any business taxable under the provisions  
306 of Sections 27-71-301 through 27-71-347.

307 (3) If the holder of a permit, or the employee of the holder  
308 of a permit, shall be convicted of selling any beer or wine to any  
309 person under the age of twenty-one (21) years from the licensed  
310 premises in violation of Section 67-3-53(b), then, in addition to  
311 any other penalty provided for by law, the holder of the permit  
312 may be punished as follows:

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

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

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

330           If a person loses his permit to sell beer or wine because of  
331 selling these substances to persons under twenty-one (21) years of  
332 age, members of his immediate family shall not be allowed to  
333 obtain a permit as provided in Section 67-3-17. For the purposes  
334 of this section, "family member" includes the spouse or child of  
335 the holder of the permit.

336           (4) A person who sells any beer or wine to a person under  
337 the age of twenty-one (21) years shall not be guilty of a  
338 violation of Section 67-3-53(b) if the person under the age of  
339 twenty-one (21) years represents himself to be twenty-one (21)  
340 years of age or older by displaying an apparently valid  
341 Mississippi driver's license containing a physical description  
342 consistent with his appearance or by displaying some other  
343 apparently valid identification document containing a picture and  
344 physical description consistent with his appearance for the  
345 purpose of inducing the person to sell beer or wine to him.

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

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

353 (b) For a second offense occurring within twelve (12)  
354 months of the first offense, the holder of a permit to operate a  
355 brewpub may be fined an amount not to exceed One Thousand Dollars  
356 (\$1,000.00).

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

362 SECTION 6. This act shall take effect and be in force from  
363 and after July 1, 2000.