

By: Chaney

To: Juvenile Justice

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2717

1 AN ACT TO AMEND SECTION 97-32-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR SUSPENSION OF DRIVER'S LICENSE OR PERMIT OF
3 YOUTHFUL OFFENDERS IN POSSESSION OF TOBACCO; TO AMEND SECTION
4 97-32-5, MISSISSIPPI CODE OF 1972, TO REVISE PENALTY FOR THOSE
5 PROVIDING TOBACCO TO THOSE UNDER AGE; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 97-32-13, Mississippi Code of 1972, is
8 amended as follows:[CSQ1]

9 97-32-13. (1) Any person under the age of eighteen (18)
10 years who falsely states he is eighteen (18) years of age or
11 older, or presents any document that indicates he is eighteen (18)
12 years of age or older, for the purpose of purchasing or possessing
13 any tobacco or tobacco product shall be penalized not less than
14 Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars
15 (\$200.00) or required to complete at least thirty (30) days
16 community service, or both.

17 (2) (a) Any person under the age of eighteen (18) years who
18 violates the provisions of this chapter, in addition to any other
19 punishment authorized by law, may have his driver's license
20 suspended for a period of one (1) month, and shall pay a fine of
21 Twenty-five Dollars (\$25.00) for the first offense, or shall have
22 his driver's license suspended for three (3) months and pay a fine
23 not to exceed Five Hundred Dollars (\$500.00) for a second or
24 subsequent offense.

25 (b) Upon conviction or adjudication of any person under
26 the age of eighteen (18) years for a violation of this chapter,
27 the judge shall notify the Commissioner of Public Safety of the

28 adjudication on a form to be devised by the commissioner. The
29 commissioner or his authorized agent shall suspend the driver's
30 license or permit to drive or deny the issuance of a license or
31 permit to the person as provided in this subsection (2).

32 SECTION 2. Section 97-32-5, Mississippi Code of 1972, is
33 amended as follows:[CSQ2]

34 97-32-5. It shall be unlawful for any person, or retailer,
35 to sell, barter, deliver or give tobacco products to any
36 individual under eighteen (18) years of age unless the individual
37 under eighteen (18) years of age holds a retailer's license to
38 sell tobacco under Section 27-69-1 et seq., Mississippi Code of
39 1972.

40 It shall be an absolute affirmative defense that the person
41 selling, bartering, delivering or giving tobacco products over the
42 counter in a retail establishment to an individual under eighteen
43 (18) years of age in violation of this article had requested and
44 examined a government-issued photographic identification from such
45 person establishing his age as at least eighteen (18) years prior
46 to selling such person a tobacco product. The failure of a
47 seller, barterer, deliverer or giver of tobacco products over the
48 counter in a retail establishment to request and examine
49 photographic identification from a person under eighteen (18)
50 years of age prior to the sale of a tobacco product to such person
51 if the individual is not known to the seller, barterer, deliverer
52 or giver of the tobacco product to be over the age of eighteen
53 (18) years, shall be construed against the seller, barterer,
54 deliverer or giver and form a conclusive basis for the seller's
55 violation of this section.

56 It shall be an absolute affirmative defense that the person
57 or entity giving tobacco products through the mail to an
58 individual under eighteen (18) years of age in violation of this
59 article had requested and received documentary or written evidence
60 from such person purportedly establishing his age to be at least
61 eighteen (18) years of age.

62 Any person who violates this section shall be subject to a
63 fine of not less than One Hundred Dollars (\$100.00) nor more than
64 Five Hundred Dollars (\$500.00), sentenced to not more than thirty

65 (30) days of community service, or both.

66 Any person found in violation of this section shall be issued
67 a citation and the holder of the retailer permit shall be sent
68 notification of this citation by registered mail by the law
69 enforcement agency issuing the citation. Notification shall
70 include the opportunity for hearing before the appropriate court.

71 For a first conviction, the retailer shall be sent a warning
72 letter informing him of the retailer's responsibility in the
73 selling of tobacco products. For a second conviction, the
74 retailer, or retailer's designee, shall be required to enroll in
75 and complete a "Retailer Tobacco Education Program."

76 For a third or subsequent violation of this section by any
77 retailer, within one (1) year of the two (2) prior violations, any
78 retailer's permit issued pursuant to Section 27-69-1 et seq.,
79 Mississippi Code of 1972, may be revoked or suspended for a period
80 of at least one (1) year after notice and opportunity for hearing.

81 If said permit is revoked by the Tax Commission, the retailer may
82 not reapply for a permit to sell tobacco for a period of six (6)
83 months. For the purposes of this section, "subsequent violations"
84 are those committed at the same place of business.

85 It is the responsibility of all law enforcement officers and
86 law enforcement agencies of this state to ensure that the
87 provisions of this article are enforced.

88 It shall not be considered a violation of this section on the
89 part of any law enforcement officer or person under eighteen (18)
90 years of age for any law enforcement officer of this state to use
91 persons under eighteen (18) years of age to purchase or attempt to
92 purchase tobacco products for the purpose of monitoring compliance
93 with this section, as long as those persons are supervised by duly
94 authorized law enforcement agency officials.

95 Any law enforcement agency conducting enforcement efforts
96 undertaken pursuant to this article shall prepare a report as
97 prescribed by the Attorney General which includes the number of

98 unannounced inspections conducted by the agency, a summary of
99 enforcement actions taken pursuant to this article, the name and
100 permit number of the retailer pursuant to Section 27-69-1 et seq.,
101 Mississippi Code of 1972, and final judicial disposition on all
102 enforcement actions. Reports shall be forwarded to the Office of
103 the Attorney General within twenty (20) working days of the final
104 judicial disposition.

105 On notification from local law enforcement that a retailer
106 has violated this article so as to warrant a revocation of the
107 retailer's permit, the Attorney General shall notify in writing
108 the State Tax Commission within twenty (20) working days.

109 In accordance with the procedures of Section 27-69-9,
110 Mississippi Code of 1972, the State Tax Commission shall initiate
111 revocation procedures of the retailer's permit. The Office of the
112 Attorney General shall provide legal assistance in revocation
113 procedures when requested by the Tax Commission.

114 SECTION 3. This act shall take effect and be in force from
115 and after July 1, 2000.