

By: Minor

To: Finance

## SENATE BILL NO. 2978

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A RESPONSIBLE  
2 ALCOHOL VENDOR PROGRAM DESIGNED TO ELIMINATE THE SALE OF ALCOHOLIC  
3 BEVERAGES, BEER AND LIGHT WINE TO UNDERAGE PERSONS AND TO  
4 ENCOURAGE THE RESPONSIBLE SALE OF ALCOHOLIC BEVERAGES, BEER AND  
5 LIGHT WINE; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL OVERSEE  
6 THE PROGRAM; TO PROVIDE THAT THE COMMISSION SHALL APPROVE ALL  
7 SERVER TRAINING COURSES AND ISSUE PERMITS TO APPROVED PROVIDERS;  
8 TO PROVIDE THAT APPROVED PROVIDERS SHALL ISSUE SERVER CERTIFICATES  
9 TO SERVERS UPON SUCCESSFUL COMPLETION OF A SERVER TRAINING COURSE;  
10 TO PROVIDE THAT IF A VENDOR'S EMPLOYEE SELLS ALCOHOLIC BEVERAGES,  
11 BEER OR LIGHT WINE TO UNDERAGE OR VISIBLY INTOXICATED PERSONS THE  
12 VENDORS PERMIT SHALL NOT BE SUSPENDED OR REVOKED BY THE COMMISSION  
13 FOR THE FIRST OFFENSE COMMITTED ON THE PERMITTED PREMISES WITHIN A  
14 TWELVE-MONTH PERIOD IF ALL SERVERS OF THE VENDOR POSSES A VALID  
15 SERVER'S CERTIFICATION AT THE TIME OF THE VIOLATION OR ALL SERVERS  
16 HAVE APPLIED FOR SERVER'S CERTIFICATION WITHIN 30 DAYS AFTER  
17 COMMENCING EMPLOYMENT, AND THE VENDOR WAS WITHOUT KNOWLEDGE OF THE  
18 VIOLATION OR DID NOT PARTICIPATE IN OR COMMIT THE VIOLATION; TO  
19 PROVIDE THAT IF THERE ARE SUBSEQUENT VIOLATIONS WITHIN THE  
20 TWELVE-MONTH PERIOD, SERVER TRAINING SHALL NOT BE CONSIDERED AS A  
21 MITIGATING FACTOR; TO PROVIDE FOR FEES FOR APPROVED PROVIDER  
22 PERMITS; TO AMEND SECTIONS 67-1-37, 67-1-71 AND 67-3-29,  
23 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
24 PURPOSES.

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

26 SECTION 1. This act shall be known and may be cited as the  
27 "Responsible Alcohol Vendor Law" of the State of Mississippi.

28 SECTION 2. The purpose of this section is to eliminate the  
29 sale of alcoholic beverages, beer and light wine to, and the  
30 consumption of alcoholic beverages, beer, and light wine by  
31 underage persons; to reduce intoxication and to reduce accidents,  
32 injuries, and death in the state which are related to  
33 intoxication; and to encourage the responsible sale of alcoholic  
34 beverages, beer and light wine by vendors throughout the state and  
35 provide for the mitigation of administrative penalties against  
36 vendors who comply with responsible practices in accordance with  
37 this act.

38           SECTION 3. As used in this act:

39           (a) "Commission" means the State Tax Commission.

40           (b) "Person" means and includes any individual,  
41 partnership, corporation, association, or other legal entity.

42           (c) "Vendor" means any person holding a permit to sell  
43 alcoholic beverages, beer or light wine, for on-premises  
44 consumption or off-premises consumption.

45           (d) "Server" means any employee of a vendor who is  
46 authorized to sell, serve, or mix alcoholic beverages, beer or  
47 light wine in the normal course of his or her employment or deals  
48 with the customers who purchase or consume alcoholic beverages,  
49 beer or light wine.

50           (e) "Server certification" means the certificate issued  
51 to a server upon completion of an approved server training course.

52           (f) "Approved provider" means a person approved by the  
53 commission to provide server training courses.

54           (g) "Trainer" means an individual employed or  
55 authorized by an approved training provider to conduct an alcohol  
56 server education course wherein the successful completion of the  
57 course by the student will result in the issuance of a server  
58 certification.

59           SECTION 4. (1) The commission shall oversee the Responsible  
60 Alcohol Vendor Program designed to educate vendors and their  
61 employees and customers about selling, serving, and consuming  
62 alcoholic beverages, beer and light wine in a responsible manner.

63           The commission shall:

64           (a) Approve server training courses for vendors and  
65 servers;

66           (b) Issue and renew approved provider permits.  
67 Approved provider permits shall be considered a privilege license  
68 and if not expired, suspended or revoked, remain valid within the  
69 State of Mississippi.

70           (2) The commission shall approve all server training course

71 prior to implementation and issue permits to approved providers.  
72 The permits for approved providers shall be valid for two (2)  
73 years. The commission may promulgate rules and regulations  
74 setting forth additional requirements for providers and/or  
75 individual trainers.

76 (3) Approved providers shall retain record of all person  
77 trained for a period of three (3) years after the date of such  
78 training and shall make this information available to the  
79 commission upon request or as required by regulation.

80 SECTION 5. Approved providers shall issue server  
81 certificates to servers upon successful completion of a server  
82 training course offered by an approved provider. Server  
83 certificates shall be valid for a period of two (2) years from the  
84 date of completion of the training course and shall be issued and  
85 renewed by approved providers in accordance with the rules and  
86 regulations promulgated by the commission.

87 SECTION 6. The commission may suspend or revoke and approved  
88 provider's permit or impose a fine for noncompliance with this act  
89 or for any violation of the federal, state or local laws or  
90 regulations. The procedure for the suspension, revocation or  
91 denial of a permit, or for the imposition of fines, shall be the  
92 same as are otherwise set forth in Chapter 1, Title 67,  
93 Mississippi Code of 1972, suspension or revocation of alcoholic  
94 beverage permits.

95 SECTION 7. (1) If vendor's employee sells alcoholic  
96 beverages, beer or light wine to an underage or visibly  
97 intoxicated person, the vendor's permit shall not be suspended or  
98 revoked by the commission for the first offense committed on the  
99 permitted premises within a twelve-month period if:

100 (a) All servers of the vendor possessed a valid  
101 server's certification at the time of the violation or all servers  
102 had applied for server's certification within thirty (30) days  
103 after commencing employment; and

104 (b) The vendor was without knowledge of the violation  
105 or did not participate in or commit such violation.

106 (2) If there are subsequent violations at the permitted  
107 premises, within a twelve-month period, the commission shall not  
108 consider server training in mitigation of a vendor's  
109 administrative penalties or fines for the unlawful sale or service  
110 of an alcoholic beverage, beer or light wine.

111 (3) The vendor shall have the burden of proof in showing  
112 that his or her employees were trained or had applied for training  
113 within thirty (30) days of commencing employment.

114 SECTION 8. The commission, may promulgate rules and  
115 regulations to effectuate the program in accordance with the  
116 Administrative Procedures Act, including, but not limited to,  
117 rules and regulations related to the development , establishment,  
118 and maintenance of the program. The commission shall effect the  
119 formation of an industry advisory council to provide comment on  
120 the proposed initial rules and regulations.

121 SECTION 9. The commission may promulgate rules and  
122 regulations regarding fees for approved provider permits to be  
123 issued under this act. The commission may assess a permit fee not  
124 to exceed Five Hundred Dollars (\$500.00) upon any person,  
125 organization or entity seeking classification as an approved  
126 provider. This permit shall remain valid for a period of two (2)  
127 years, unless suspended or revoked by the commission. The  
128 commission may renew an approved provider permit upon request and  
129 assess a permit renewal fee not to exceed One Hundred Dollars  
130 (\$100.00).

131 SECTION 10. Section 67-1-37, Mississippi Code of 1972, is  
132 amended as follows:

133 67-1-37. The State Tax Commission, under its duties and  
134 powers with respect to the Alcoholic Beverage Control Division  
135 therein, shall have the following powers, functions and duties:

136 (a) To issue or refuse to issue any permit provided for

137 by this chapter, or to extend the permit or remit in whole or any  
138 part of the permit monies when the permit cannot be used due to a  
139 natural disaster or Act of God.

140 (b) To revoke, suspend or cancel, for violation of or  
141 noncompliance with the provisions of this chapter, or the law  
142 governing the production and sale of native wines, or any lawful  
143 rules and regulations of the commission issued hereunder, or for  
144 other sufficient cause, any permit issued by it under the  
145 provisions of this chapter; however, no such permit shall be  
146 revoked, suspended or cancelled except after a hearing of which  
147 the permit holder shall have been given reasonable notice and an  
148 opportunity to be heard. The board shall be authorized to suspend  
149 the permit of any permit holder for being out of compliance with  
150 an order for support, as defined in Section 93-11-153. The  
151 procedure for suspension of a permit for being out of compliance  
152 with an order for support, and the procedure for the reissuance or  
153 reinstatement of a permit suspended for that purpose, and the  
154 payment of any fees for the reissuance or reinstatement of a  
155 permit suspended for that purpose, shall be governed by Section  
156 93-11-157 or 93-11-163, as the case may be. If there is any  
157 conflict between any provision of Section 93-11-157 or 93-11-163  
158 and any provision of this chapter, the provisions of Section  
159 93-11-157 or 93-11-163, as the case may be, shall control.

160 (c) To prescribe forms of permits and applications for  
161 permits and of all reports which it deems necessary in  
162 administering this chapter.

163 (d) To fix standards, not in conflict with those  
164 prescribed by any law of this state or of the United States, to  
165 secure the use of proper ingredients and methods of manufacture of  
166 alcoholic beverages.

167 (e) To issue rules regulating the advertising of  
168 alcoholic beverages in the state in any class of media and  
169 permitting advertising of the retail price of alcoholic beverages.

170           (f) To issue reasonable rules and regulations, not  
171 inconsistent with the federal laws or regulations, requiring  
172 informative labeling of all alcoholic beverages offered for sale  
173 within this state and providing for the standards of fill and  
174 shapes of retail containers of alcoholic beverages; however, such  
175 containers shall not contain less than fifty (50) milliliters by  
176 liquid measure.

177           (g) Subject to the provisions of subsection (3) of  
178 Section 67-1-51, to issue rules and regulations governing the  
179 issuance of retail permits for premises located near or around  
180 schools, colleges, universities, churches and other public  
181 institutions, and specifying the distances therefrom within which  
182 no such permit shall be issued. The alcoholic beverage control  
183 division shall not allow the sale or consumption of alcoholic  
184 beverages in or on the campus of any public school or college, and  
185 no alcoholic beverage shall be for sale or consumed at any public  
186 athletic event at any grammar or high school or any college.

187           (h) To adopt and promulgate, repeal and amend, such  
188 rules, regulations, standards, requirements and orders, not  
189 inconsistent with this chapter or any law of this state or of the  
190 United States, as it deems necessary to control the manufacture,  
191 importation, transportation, distribution and sale of alcoholic  
192 liquor, whether intended for beverage or nonbeverage use in a  
193 manner not inconsistent with the provisions of this chapter or any  
194 other statute, including the native wine laws.

195           (i) To call upon other administrative departments of  
196 the state, county and municipal governments, county and city  
197 police departments and upon prosecuting officers for such  
198 information and assistance as it may deem necessary in the  
199 performance of its duties.

200           (j) To prepare and submit to the Governor during the  
201 month of January of each year a detailed report of its official  
202 acts during the preceding fiscal year ending June 30, including

203 such recommendations as it may see fit to make, and to transmit a  
204 like report to each member of the Legislature of this state upon  
205 the convening thereof at its next regular session.

206 (k) To inspect, or cause to be inspected, any premises  
207 where alcoholic liquors intended for sale are manufactured,  
208 stored, distributed or sold, and to examine or cause to be  
209 examined all books and records pertaining to the business  
210 conducted therein.

211 (l) In the conduct of any hearing authorized to be held  
212 by the commission, to hear testimony and take proof material for  
213 its information in the discharge of its duties under this chapter;  
214 to issue subpoenas, which shall be effective in any part of this  
215 state, requiring the attendance of witnesses and the production of  
216 books and records; to administer or cause to be administered  
217 oaths; and to examine or cause to be examined any witness under  
218 oath. Any court of record, or any judge thereof, may by order  
219 duly entered require the attendance of witnesses and the  
220 production of relevant books subpoenaed by the commission, and  
221 such court or judge may compel obedience to its or his order by  
222 proceedings for contempt.

223 (m) To investigate the administration of laws in  
224 relation to alcoholic liquors in this and other states and any  
225 foreign countries, and to recommend from time to time to the  
226 Governor and through him to the Legislature of this state such  
227 amendments to this chapter, if any, as it may think desirable.

228 (n) To designate hours and days when alcoholic  
229 beverages may be sold in different localities in the state which  
230 permit such sale.

231 (o) To assign employees to posts of duty at locations  
232 where they will be most beneficial for the control of alcoholic  
233 beverages, to remove, to dismiss, to suspend without pay, to act  
234 as a trial board in hearings based upon charges against employees.  
235 After twelve (12) months' service, no employee shall be removed,

236 dismissed, demoted or suspended without just cause and only after  
237 being furnished with reasons for such removal, dismissal, demotion  
238 or suspension, and upon request given a hearing in his own  
239 defense.

240 (p) All hearings conducted by the commission shall be  
241 open to the public, and, when deemed necessary, a written  
242 transcript shall be made of the testimony introduced thereat.

243 (q) To adopt and promulgate rules and regulations for  
244 suspension or revocation of identification cards of employees of  
245 permittees for violations of the alcoholic beverage control laws,  
246 rules or regulations.

247 (r) To adopt and promulgate rules and regulations for  
248 Responsible Alcohol Vendor Law.

249 SECTION 11. Section 67-1-71, Mississippi Code of 1972, is  
250 amended as follows:

251 67-1-71. The commission may revoke or suspend any permit  
252 issued by it for a violation by the permittee of any of the  
253 provisions of this chapter or of the regulations promulgated under  
254 it by the commission.

255 Permits must be revoked or suspended for the following  
256 causes:

257 (a) Conviction of the permittee for the violation of  
258 any of the provisions of this chapter;

259 (b) Willful failure or refusal by any permittee to  
260 comply with any of the provisions of this chapter or of any rule  
261 or regulation adopted pursuant thereto;

262 (c) The making of any materially false statement in any  
263 application for a permit;

264 (d) Conviction of one or more of the clerks, agents or  
265 employees of the permittee, of any violation of this chapter upon  
266 the premises covered by such permit within a period of time as  
267 designated by the rules or regulations of the commission;

268 (e) The possession on the premises of any retail



269 permittee of any alcoholic beverages upon which the tax has not  
270 been paid;

271 (f) The willful failure of any permittee to keep the  
272 records or make the reports required by this chapter, or to allow  
273 an inspection of such records by any duly authorized person;

274 (g) The suspension or revocation of a permit issued to  
275 the permittee by the federal government, or conviction of  
276 violating any federal law relating to alcoholic beverages;

277 (h) The failure to furnish any bond required by this  
278 chapter within fifteen (15) days after notice from the commission;  
279 and

280 (i) The conducting of any form of illegal gambling on  
281 the premises of any permittee or on any premises connected  
282 therewith or the presence on any such premises of any gambling  
283 device with the knowledge of the permittee.

284 The provisions of item (i) of this section shall not apply to  
285 gambling or the presence of any gambling devices, with knowledge  
286 of the permittee, on board a cruise vessel in the waters within  
287 the State of Mississippi, which lie adjacent to the State of  
288 Mississippi south of the three (3) most southern counties in the  
289 State of Mississippi, or on any vessel as defined in Section  
290 27-109-1 whenever such vessel is on the Mississippi River or  
291 navigable waters within any county bordering on the Mississippi  
292 River. The commission may, in its discretion, issue on-premises  
293 retailer's permits to a common carrier of the nature described in  
294 this paragraph.

295 In exercising its authority under this section, the  
296 commission shall recognize the defense created for permittees  
297 certified under the Responsible Alcohol Vendor Law.

298 No permit shall be revoked except after a hearing by the  
299 commission with reasonable notice to the permittee and an  
300 opportunity for him to appear and defend.

301 In addition to the causes specified in this section and other

302 provisions of this chapter, the commission shall be authorized to  
303 suspend the permit of any permit holder for being out of  
304 compliance with an order for support, as defined in Section  
305 93-11-153. The procedure for suspension of a permit for being out  
306 of compliance with an order for support, and the procedure for the  
307 reissuance or reinstatement of a permit suspended for that  
308 purpose, and the payment of any fees for the reissuance or  
309 reinstatement of a permit suspended for that purpose, shall be  
310 governed by Section 93-11-157 or 93-11-163, as the case may be.  
311 If there is any conflict between any provision of Section  
312 93-11-157 or 93-11-163 and any provision of this chapter, the  
313 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
314 shall control.

315 SECTION 12. Section 67-3-29, Mississippi Code of 1972, is  
316 amended as follows:

317 67-3-29. (1) The commissioner shall revoke any permit  
318 granted by authority of this chapter to any person who shall  
319 violate any of the provisions of this chapter or the revenue laws  
320 of this state relating to engaging in transporting, storing,  
321 selling, distributing, possessing, receiving or manufacturing of  
322 wines or beers, or any person who shall hereafter be convicted of  
323 the unlawful sale of intoxicating liquor, or any person who shall  
324 allow or permit any form of illegal gambling or immorality on the  
325 premises described in such permit.

326 (2) If any person exercising any privilege taxable under the  
327 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,  
328 shall willfully neglect or refuse to comply with the provisions of  
329 such chapter, or any rules or regulations promulgated by the  
330 commissioner under authority of such chapter, or the provisions of  
331 this chapter, the commissioner shall be authorized to revoke the  
332 permit theretofore issued to such person, after giving to such  
333 person ten (10) days notice of the intention of the commissioner  
334 to revoke such permit. The commissioner may, however, suspend

335 such permit instead of revoking same if, in his opinion,  
336 sufficient cause is shown for a suspension rather than revocation.  
337 Any person whose permit shall have been revoked by the  
338 commissioner shall be thereafter prohibited from exercising any  
339 privilege under the provisions of Chapter 71 of Title 27,  
340 Mississippi Code of 1972, for a period of two (2) years from the  
341 date of such revocation. The commissioner may, however, for good  
342 cause shown, grant a new permit upon such conditions as the  
343 commissioner may prescribe. Any person whose permit shall have  
344 been suspended by the commissioner shall be prohibited from  
345 exercising any privilege under the provisions of Chapter 71 of  
346 Title 27, Mississippi Code of 1972, during the period of such  
347 suspension. Failure of such person to comply with the terms of  
348 the suspension shall be cause for revocation of his permit, in  
349 addition to the other penalties provided by law.

350 (3) In addition to the reasons specified in this section and  
351 other provisions of this chapter, the commissioner shall be  
352 authorized to suspend the permit of any permit holder for being  
353 out of compliance with an order for support, as defined in Section  
354 93-11-153. The procedure for suspension of a permit for being out  
355 of compliance with an order for support, and the procedure for the  
356 reissuance or reinstatement of a permit suspended for that  
357 purpose, and the payment of any fees for the reissuance or  
358 reinstatement of a permit suspended for that purpose, shall be  
359 governed by Section 93-11-157 or 93-11-163, as the case may be.  
360 If there is any conflict between any provision of Section  
361 93-11-157 or 93-11-163 and any provision of this chapter, the  
362 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
363 shall control.

364 (4) In exercising its authority under this section, the  
365 commission shall recognize the defense created for permittees  
366 certified under the Responsible Alcohol Vendor Law.

367 SECTION 13. This act shall take effect and be in force from

368 and after July 1, 2000.