

By: Minor

To: Finance

SENATE BILL NO. 3010

1 AN ACT TO AMEND SECTIONS 67-1-37, 67-3-31, 67-3-37 AND
 2 67-3-75, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISIONS THAT
 3 REMOVE THE AUTHORITY OF THE STATE TAX COMMISSION AND ENFORCEMENT
 4 OFFICERS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION TO ASSIST IN
 5 THE ENFORCEMENT OF CERTAIN PROVISIONS OF THE LAWS REGULATING THE
 6 SALE OF LIGHT WINE AND BEER FROM AND AFTER JULY 1, 2000; TO EXPAND
 7 THE ENFORCEMENT AUTHORITY OF THE STATE TAX COMMISSION AND
 8 ENFORCEMENT OFFICERS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION
 9 UNDER SUCH LAWS; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 67-1-37, Mississippi Code of 1972, is
 12 amended as follows:[CRG1]

13 * * *

14 67-1-37. The State Tax Commission, under its duties and
 15 powers with respect to the Alcoholic Beverage Control Division
 16 therein, shall have the following powers, functions and duties:

17 (a) To issue or refuse to issue any permit provided for
 18 by this chapter, or to extend the permit or remit in whole or any
 19 part of the permit monies when the permit cannot be used due to a
 20 natural disaster or Act of God.

21 (b) To revoke, suspend or cancel, for violation of or
 22 noncompliance with the provisions of this chapter, or the law
 23 governing the production and sale of native wines, or any lawful
 24 rules and regulations of the commission issued hereunder, or for
 25 other sufficient cause, any permit issued by it under the
 26 provisions of this chapter; however, no such permit shall be
 27 revoked, suspended or cancelled except after a hearing of which
 28 the permit holder shall have been given reasonable notice and an
 29 opportunity to be heard. The board shall be authorized to suspend

30 the permit of any permit holder for being out of compliance with
31 an order for support, as defined in Section 93-11-153. The
32 procedure for suspension of a permit for being out of compliance
33 with an order for support, and the procedure for the reissuance or
34 reinstatement of a permit suspended for that purpose, and the
35 payment of any fees for the reissuance or reinstatement of a
36 permit suspended for that purpose, shall be governed by Section
37 93-11-157 or 93-11-163, as the case may be. If there is any
38 conflict between any provision of Section 93-11-157 or 93-11-163
39 and any provision of this chapter, the provisions of Section
40 93-11-157 or 93-11-163, as the case may be, shall control.

41 (c) To prescribe forms of permits and applications for
42 permits and of all reports which it deems necessary in
43 administering this chapter.

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

48 (e) To issue rules regulating the advertising of
49 alcoholic beverages in the state in any class of media and
50 permitting advertising of the retail price of alcoholic beverages.

51 (f) To issue reasonable rules and regulations, not
52 inconsistent with the federal laws or regulations, requiring
53 informative labeling of all alcoholic beverages offered for sale
54 within this state and providing for the standards of fill and
55 shapes of retail containers of alcoholic beverages; however, such
56 containers shall not contain less than fifty (50) milliliters by
57 liquid measure.

58 (g) Subject to the provisions of subsection (3) of
59 Section 67-1-51, to issue rules and regulations governing the
60 issuance of retail permits for premises located near or around
61 schools, colleges, universities, churches and other public
62 institutions, and specifying the distances therefrom within which
63 no such permit shall be issued. The alcoholic beverage control
64 division shall not allow the sale or consumption of alcoholic
65 beverages in or on the campus of any public school or college, and
66 no alcoholic beverage shall be for sale or consumed at any public

67 athletic event at any grammar or high school or any college.

68 (h) To adopt and promulgate, repeal and amend, such
69 rules, regulations, standards, requirements and orders, not
70 inconsistent with this chapter or any law of this state or of the
71 United States, as it deems necessary to control the manufacture,
72 importation, transportation, distribution and sale of alcoholic
73 liquor, whether intended for beverage or nonbeverage use in a
74 manner not inconsistent with the provisions of this chapter or any
75 other statute, including the native wine laws.

76 (i) To call upon other administrative departments of
77 the state, county and municipal governments, county and city
78 police departments and upon prosecuting officers for such
79 information and assistance as it may deem necessary in the
80 performance of its duties.

81 (j) To prepare and submit to the Governor during the
82 month of January of each year a detailed report of its official
83 acts during the preceding fiscal year ending June 30, including
84 such recommendations as it may see fit to make, and to transmit a
85 like report to each member of the Legislature of this state upon
86 the convening thereof at its next regular session.

87 (k) To inspect, or cause to be inspected, any premises
88 where alcoholic liquors intended for sale are manufactured,
89 stored, distributed or sold, and to examine or cause to be
90 examined all books and records pertaining to the business
91 conducted therein.

92 (l) In the conduct of any hearing authorized to be held
93 by the commission, to hear testimony and take proof material for
94 its information in the discharge of its duties under this chapter;
95 to issue subpoenas, which shall be effective in any part of this
96 state, requiring the attendance of witnesses and the production of
97 books and records; to administer or cause to be administered
98 oaths; and to examine or cause to be examined any witness under
99 oath. Any court of record, or any judge thereof, may by order

100 duly entered require the attendance of witnesses and the
101 production of relevant books subpoenaed by the commission, and
102 such court or judge may compel obedience to its or his order by
103 proceedings for contempt.

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

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

112 (o) To assign employees to posts of duty at locations
113 where they will be most beneficial for the control of alcoholic
114 beverages, to remove, to dismiss, to suspend without pay, to act
115 as a trial board in hearings based upon charges against employees.
116 After twelve (12) months' service, no employee shall be removed,
117 dismissed, demoted or suspended without just cause and only after
118 being furnished with reasons for such removal, dismissal, demotion
119 or suspension, and upon request given a hearing in his own
120 defense.

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

124 (q) To adopt and promulgate rules and regulations for
125 suspension or revocation of identification cards of employees of
126 permittees for violations of the alcoholic beverage control laws,
127 rules or regulations.

128 (r) To enforce the provisions of Chapter 3, Title 67,
129 Mississippi Code of 1972.

130 * * *

131 SECTION 2. Section 67-3-31, Mississippi Code of 1972, is
132 amended as follows:[CRG2]

133 * * *

134 67-3-31. Proceedings for the revocation or suspension of any
135 permit authorizing the sale of beer or wine at retail for a
136 violation of any of the provisions of Section 67-3-53 may be
137 brought in the circuit or county court of the county in which the
138 licensed premises are located. Such proceedings shall be entitled
139 in the name of the state and against the permittee and shall be
140 instituted by filing a complaint with the clerk of the court. The
141 complaint may be filed by the county prosecuting attorney of the
142 county upon his own initiative or, then by the district attorney
143 of the district in which the county is located, and it shall be
144 mandatory upon the county prosecuting attorney, or district
145 attorney as the case may be, to file a complaint when requested to
146 do so by a peace officer or any person as hereinafter provided.
147 Any peace officer within his jurisdiction or any enforcement
148 officer of the Alcoholic Beverage Control Division within the
149 State Tax Commission who learns that a retail permittee has
150 violated any of the provisions of such section shall file with the
151 county prosecuting attorney of the county in which the licensed
152 premises are located, or, then with the district attorney of the
153 district in which such county is located, an affidavit specifying
154 in detail the facts alleged to constitute such violation, and
155 requesting that a complaint be filed against the permittee for the
156 revocation or suspension of his permit. A like affidavit may be
157 filed with the county prosecuting attorney, or district attorney
158 as the case may be, by any person who resides, and has for at
159 least one (1) year prior thereto resided within the county in
160 which the licensed premises are located requesting that a
161 complaint be filed for the revocation or suspension of the
162 permittee's permit. Promptly upon receiving any such affidavit
163 the county prosecuting attorney, or district attorney, shall
164 prepare a proper complaint, which shall be signed and sworn to by
165 the person or persons filing the affidavit with him, and the

166 county prosecuting attorney or district attorney shall file the
167 complaint with the clerk of the circuit or county court.

168 * * *

169 SECTION 3. Section 67-3-37, Mississippi Code of 1972, is
170 amended as follows:[CRG3]

171 * * *

172 67-3-37. It shall be the duty of the county prosecuting
173 attorney or the district attorney, as the case may be, to file
174 complaints as provided in Section 67-3-31 and to prosecute
175 diligently and without delay all complaints filed by him.

176 It shall be the duty of all peace officers, within their
177 jurisdiction, and all enforcement officers of the Alcoholic
178 Beverage Control Division of the State Tax Commission to enforce
179 the provisions of Section 67-3-53 and they shall frequently visit
180 all licensed premises within their jurisdiction to determine
181 whether such permittees are complying with the laws. They shall
182 promptly investigate all complaints made to them by any citizen
183 relative to any alleged violations of such section within their
184 jurisdiction. When any peace officer or enforcement officer of
185 the Alcoholic Beverage Control Division has knowledge of a
186 violation of such section committed by a permittee within his
187 jurisdiction, it shall be his duty forthwith to file an affidavit
188 with the county prosecuting attorney or district attorney
189 requesting that a complaint be filed for the revocation or
190 suspension of the permit of the permittee.

191 * * *

192 SECTION 4. Section 67-3-75, Mississippi Code of 1972, is
193 amended as follows:[CRG4]

194 67-3-75. In addition to peace officers within their
195 jurisdiction, all enforcement officers of the Alcoholic Beverage
196 Control Division of the State Tax Commission are authorized to
197 enforce the provisions of this chapter. * * *

198 SECTION 5. This act shall take effect and be in force from

199 and after its passage.