

By: Minor

To: Finance

SENATE BILL NO. 3010
(As Passed the Senate)

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 EXTEND UNTIL JULY 1, 2002,
3 THE AUTHORITY OF THE STATE TAX COMMISSION AND ENFORCEMENT OFFICER
4 OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION TO ASSIST IN THE
5 ENFORCEMENT OF CERTAIN PROVISIONS OF THE LAW REGULATING THE SALE
6 OF LIGHT WINE AND BEER; AND FOR RELATED PURPOSES.

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

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

10 **[Through June 30, 2002, this section shall read as follows:]**

11 67-1-37. The State Tax Commission, under its duties and
12 powers with respect to the Alcoholic Beverage Control Division
13 therein, shall have the following powers, functions and duties:

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

18 (b) To revoke, suspend or cancel, for violation of or
19 noncompliance with the provisions of this chapter, or the law
20 governing the production and sale of native wines, or any lawful
21 rules and regulations of the commission issued hereunder, or for
22 other sufficient cause, any permit issued by it under the
23 provisions of this chapter; however, no such permit shall be
24 revoked, suspended or cancelled except after a hearing of which
25 the permit holder shall have been given reasonable notice and an
26 opportunity to be heard. The board shall be authorized to suspend
27 the permit of any permit holder for being out of compliance with
28 an order for support, as defined in Section 93-11-153. The

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

38 (c) To prescribe forms of permits and applications for
39 permits and of all reports which it deems necessary in
40 administering this chapter.

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

45 (e) To issue rules regulating the advertising of
46 alcoholic beverages in the state in any class of media and
47 permitting advertising of the retail price of alcoholic beverages.

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

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

65 (h) To adopt and promulgate, repeal and amend, such

66 rules, regulations, standards, requirements and orders, not
67 inconsistent with this chapter or any law of this state or of the
68 United States, as it deems necessary to control the manufacture,
69 importation, transportation, distribution and sale of alcoholic
70 liquor, whether intended for beverage or nonbeverage use in a
71 manner not inconsistent with the provisions of this chapter or any
72 other statute, including the native wine laws.

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

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

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

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

99 such court or judge may compel obedience to its or his order by
100 proceedings for contempt.

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

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

109 (o) To assign employees to posts of duty at locations
110 where they will be most beneficial for the control of alcoholic
111 beverages, to remove, to dismiss, to suspend without pay, to act
112 as a trial board in hearings based upon charges against employees.

113 After twelve (12) months' service, no employee shall be removed,
114 dismissed, demoted or suspended without just cause and only after
115 being furnished with reasons for such removal, dismissal, demotion
116 or suspension, and upon request given a hearing in his own
117 defense.

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

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

125 (r) To enforce the provisions made unlawful by Section
126 67-3-53.

127 **[From and after July 1, 2002, this section shall read as**
128 **follows:]**

129 67-1-37. The State Tax Commission, under its duties and
130 powers with respect to the Alcoholic Beverage Control Division
131 therein, shall have the following powers, functions and duties:

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

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

156 (c) To prescribe forms of permits and applications for
157 permits and of all reports which it deems necessary in
158 administering this chapter.

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

163 (e) To issue rules regulating the advertising of
164 alcoholic beverages in the state in any class of media and

165 permitting advertising of the retail price of alcoholic beverages.

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

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

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

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

196 (j) To prepare and submit to the Governor during the
197 month of January of each year a detailed report of its official

198 acts during the preceding fiscal year ending June 30, including
199 such recommendations as it may see fit to make, and to transmit a
200 like report to each member of the Legislature of this state upon
201 the convening thereof at its next regular session.

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

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

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

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

227 (o) To assign employees to posts of duty at locations
228 where they will be most beneficial for the control of alcoholic
229 beverages, to remove, to dismiss, to suspend without pay, to act
230 as a trial board in hearings based upon charges against employees.

231 After twelve (12) months' service, no employee shall be removed,
232 dismissed, demoted or suspended without just cause and only after
233 being furnished with reasons for such removal, dismissal, demotion
234 or suspension, and upon request given a hearing in his own
235 defense.

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

239 (q) To adopt and promulgate rules and regulations for
240 suspension or revocation of identification cards of employees of
241 permittees for violations of the alcoholic beverage control laws,
242 rules or regulations.

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

245 **[Through June 30, 2002, this section shall read as follows:]**

246 67-3-31. Proceedings for the revocation or suspension of any
247 permit authorizing the sale of beer or wine at retail for a
248 violation of any of the provisions of Section 67-3-53 may be
249 brought in the circuit or county court of the county in which the
250 licensed premises are located. Such proceedings shall be entitled
251 in the name of the state and against the permittee and shall be
252 instituted by filing a complaint with the clerk of the court. The
253 complaint may be filed by the county prosecuting attorney of the
254 county upon his own initiative or, then by the district attorney
255 of the district in which the county is located, and it shall be
256 mandatory upon the county prosecuting attorney, or district
257 attorney as the case may be, to file a complaint when requested to
258 do so by a peace officer or any person as hereinafter provided.
259 Any peace officer within his jurisdiction or any enforcement
260 officer of the Alcoholic Beverage Control Division within the
261 State Tax Commission who learns that a retail permittee has
262 violated any of the provisions of such section shall file with the
263 county prosecuting attorney of the county in which the licensed

264 premises are located, or, then with the district attorney of the
265 district in which such county is located, an affidavit specifying
266 in detail the facts alleged to constitute such violation, and
267 requesting that a complaint be filed against the permittee for the
268 revocation or suspension of his permit. A like affidavit may be
269 filed with the county prosecuting attorney, or district attorney
270 as the case may be, by any person who resides, and has for at
271 least one (1) year prior thereto resided within the county in
272 which the licensed premises are located requesting that a
273 complaint be filed for the revocation or suspension of the
274 permittee's permit. Promptly upon receiving any such affidavit
275 the county prosecuting attorney, or district attorney, shall
276 prepare a proper complaint, which shall be signed and sworn to by
277 the person or persons filing the affidavit with him, and the
278 county prosecuting attorney or district attorney shall file the
279 complaint with the clerk of the circuit or county court.

280 **[From and after July 1, 2002, this section shall read as**
281 **follows:]**

282 67-3-31. Proceedings for the revocation or suspension of any
283 permit authorizing the sale of beer or wine at retail for a
284 violation of any of the provisions of Section 67-3-53 may be
285 brought in the circuit or county court of the county in which the
286 licensed premises are located. Such proceedings shall be entitled
287 in the name of the state and against the permittee and shall be
288 instituted by filing a complaint with the clerk of the court. The
289 complaint may be filed by the county prosecuting attorney of the
290 county upon his own initiative or, then by the district attorney
291 of the district in which the county is located, and it shall be
292 mandatory upon the county prosecuting attorney, or district
293 attorney as the case may be, to file a complaint when requested to
294 do so by a peace officer or any person as hereinafter provided.
295 Any peace officer who learns that a retail permittee within his
296 jurisdiction has violated any of the provisions of such section

297 shall file with the county prosecuting attorney of the county in
298 which the licensed premises are located, or, then with the
299 district attorney of the district in which such county is located,
300 an affidavit specifying in detail the facts alleged to constitute
301 such violation, and requesting that a complaint be filed against
302 the permittee for the revocation or suspension of his permit. A
303 like affidavit may be filed with the county prosecuting attorney,
304 or district attorney as the case may be, by any person who
305 resides, and has for at least one (1) year prior thereto resided
306 within the county in which the licensed premises are located
307 requesting that a complaint be filed for the revocation or
308 suspension of the permittee's permit. Promptly upon receiving any
309 such affidavit the county prosecuting attorney, or district
310 attorney, shall prepare a proper complaint, which shall be signed
311 and sworn to by the person or persons filing the affidavit with
312 him, and the county prosecuting attorney or district attorney
313 shall file the complaint with the clerk of the circuit or county
314 court.

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

317 **[Through June 30, 2002, this section shall read as follows:]**

318 67-3-37. It shall be the duty of the county prosecuting
319 attorney or the district attorney, as the case may be, to file
320 complaints as provided in Section 67-3-31 and to prosecute
321 diligently and without delay all complaints filed by him.

322 It shall be the duty of all peace officers, within their
323 jurisdiction, and all enforcement officers of the Alcoholic
324 Beverage Control Division of the State Tax Commission to enforce
325 the provisions of Section 67-3-53 and they shall frequently visit
326 all licensed premises within their jurisdiction to determine
327 whether such permittees are complying with the laws. They shall
328 promptly investigate all complaints made to them by any citizen
329 relative to any alleged violations of such section within their

330 jurisdiction. When any peace officer or enforcement officer of
331 the Alcoholic Beverage Control Division has knowledge of a
332 violation of such section committed by a permittee within his
333 jurisdiction, it shall be his duty forthwith to file an affidavit
334 with the county prosecuting attorney or district attorney
335 requesting that a complaint be filed for the revocation or
336 suspension of the permit of the permittee.

337 **[From and after July 1, 2002, this section shall read as**
338 **follows:]**

339 67-3-37. It shall be the duty of the county prosecuting
340 attorney or the district attorney, as the case may be, to file
341 complaints as provided in Section 67-3-31 and to prosecute
342 diligently and without delay all complaints filed by him.

343 It shall be the duty of all peace officers to enforce, within
344 their jurisdiction, the provisions of Section 67-3-53 and they
345 shall frequently visit all licensed premises within their
346 jurisdiction to determine whether such permittees are complying
347 with the laws. They shall promptly investigate all complaints
348 made to them by any citizen relative to any alleged violations of
349 such section within their jurisdiction. When any peace officer
350 has knowledge of a violation of such section committed by a
351 permittee within his jurisdiction, it shall be his duty forthwith
352 to file an affidavit with the county prosecuting attorney or
353 district attorney requesting that a complaint be filed for the
354 revocation or suspension of the permit of the permittee.

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

357 67-3-75. In addition to peace officers within their
358 jurisdiction, all enforcement officers of the Alcoholic Beverage
359 Control Division of the State Tax Commission are authorized to
360 enforce the provisions made unlawful by Section 67-3-53. This
361 section shall stand repealed from and after July 1, 2002.

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

363 and after its passage.