

By: Representatives Simpson, Reeves

To: Ways and Means

HOUSE BILL NO. 1078

1 AN ACT TO CREATE NEW SECTION 67-3-74, MISSISSIPPI CODE OF
 2 1972, TO AUTHORIZE ENFORCEMENT OFFICERS OF THE ALCOHOLIC BEVERAGE
 3 CONTROL DIVISION OF THE STATE TAX COMMISSION TO ASSIST IN THE
 4 ENFORCEMENT OF THE LAW REGULATING LIGHT WINE AND BEER; TO AMEND
 5 SECTIONS 67-1-37, 67-3-31 AND 67-3-37, MISSISSIPPI CODE OF 1972,
 6 IN CONFORMITY THERETO; TO PROVIDE THAT THE ENFORCEMENT AUTHORITY
 7 GRANTED TO OFFICERS OF THE DIVISION SHALL BE REPEALED ON JULY 1,
 8 2002; AND FOR RELATED PURPOSES.

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

10 SECTION 1. The following provision shall be codified as
 11 Section 67-3-74, Mississippi Code of 1972:

12 67-3-74. In addition to peace officers within their
 13 jurisdiction, all enforcement officers of the Alcoholic Beverage
 14 Control Division of the State Tax Commission are authorized to
 15 enforce the provisions of this chapter. The provisions of this
 16 section shall be repealed on July 1, 2002.

17 SECTION 2. Section 67-1-37, Mississippi Code of 1972, is
 18 amended as follows:

19 **[Until July 1, 2002, this section will read as follows:]**

20 67-1-37. The State Tax Commission, under its duties and
 21 powers with respect to the Alcoholic Beverage Control Division
 22 therein, shall have the following powers, functions and duties:

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

27 (b) To revoke, suspend or cancel, for violation of or
 28 noncompliance with the provisions of this chapter, or the law
 29 governing the production and sale of native wines, or any lawful

30 rules and regulations of the commission issued hereunder, or for
31 other sufficient cause, any permit issued by it under the
32 provisions of this chapter; however, no such permit shall be
33 revoked, suspended or cancelled except after a hearing of which
34 the permit holder shall have been given reasonable notice and an
35 opportunity to be heard. The board shall be authorized to suspend
36 the permit of any permit holder for being out of compliance with
37 an order for support, as defined in Section 93-11-153. The
38 procedure for suspension of a permit for being out of compliance
39 with an order for support, and the procedure for the reissuance or
40 reinstatement of a permit suspended for that purpose, and the
41 payment of any fees for the reissuance or reinstatement of a
42 permit suspended for that purpose, shall be governed by Section
43 93-11-157 or 93-11-163, as the case may be. If there is any
44 conflict between any provision of Section 93-11-157 or 93-11-163
45 and any provision of this chapter, the provisions of Section
46 93-11-157 or 93-11-163, as the case may be, shall control.

47 (c) To prescribe forms of permits and applications for
48 permits and of all reports which it deems necessary in
49 administering this chapter.

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

54 (e) To issue rules regulating the advertising of
55 alcoholic beverages in the state in any class of media and
56 permitting advertising of the retail price of alcoholic beverages.

57 (f) To issue reasonable rules and regulations, not
58 inconsistent with the federal laws or regulations, requiring
59 informative labeling of all alcoholic beverages offered for sale
60 within this state and providing for the standards of fill and
61 shapes of retail containers of alcoholic beverages; however, such

62 containers shall not contain less than fifty (50) milliliters by
63 liquid measure.

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

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

82 (i) To call upon other administrative departments of
83 the state, county and municipal governments, county and city
84 police departments and upon prosecuting officers for such
85 information and assistance as it may deem necessary in the
86 performance of its duties.

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

93 (k) To inspect, or cause to be inspected, any premises
94 where alcoholic liquors intended for sale are manufactured,

95 stored, distributed or sold, and to examine or cause to be
96 examined all books and records pertaining to the business
97 conducted therein.

98 (l) In the conduct of any hearing authorized to be held
99 by the commission, to hear testimony and take proof material for
100 its information in the discharge of its duties under this chapter;
101 to issue subpoenas, which shall be effective in any part of this
102 state, requiring the attendance of witnesses and the production of
103 books and records; to administer or cause to be administered
104 oaths; and to examine or cause to be examined any witness under
105 oath. Any court of record, or any judge thereof, may by order
106 duly entered require the attendance of witnesses and the
107 production of relevant books subpoenaed by the commission, and
108 such court or judge may compel obedience to its or his order by
109 proceedings for contempt.

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

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

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

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

130 (q) To adopt and promulgate rules and regulations for
131 suspension or revocation of identification cards of employees of
132 permittees for violations of the alcoholic beverage control laws,
133 rules or regulations.

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

136 **[From and after July 1, 2002, this section will read as**
137 **follows:]**

138 67-1-37. The State Tax Commission, under its duties and
139 powers with respect to the Alcoholic Beverage Control Division
140 therein, shall have the following powers, functions and duties:

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

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

160 permit suspended for that purpose, shall be governed by Section
161 93-11-157 or 93-11-163, as the case may be. If there is any
162 conflict between any provision of Section 93-11-157 or 93-11-163
163 and any provision of this chapter, the provisions of Section
164 93-11-157 or 93-11-163, as the case may be, shall control.

165 (c) To prescribe forms of permits and applications for
166 permits and of all reports which it deems necessary in
167 administering this chapter.

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

172 (e) To issue rules regulating the advertising of
173 alcoholic beverages in the state in any class of media and
174 permitting advertising of the retail price of alcoholic beverages.

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

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

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

200 (i) To call upon other administrative departments of
201 the state, county and municipal governments, county and city
202 police departments and upon prosecuting officers for such
203 information and assistance as it may deem necessary in the
204 performance of its duties.

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

211 (k) To inspect, or cause to be inspected, any premises
212 where alcoholic liquors intended for sale are manufactured,
213 stored, distributed or sold, and to examine or cause to be
214 examined all books and records pertaining to the business
215 conducted therein.

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

225 production of relevant books subpoenaed by the commission, and
226 such court or judge may compel obedience to its or his order by
227 proceedings for contempt.

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

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

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

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

248 (q) To adopt and promulgate rules and regulations for
249 suspension or revocation of identification cards of employees of
250 permittees for violations of the alcoholic beverage control laws,
251 rules or regulations.

252 SECTION 3. Section 67-3-31, Mississippi Code of 1972, is
253 amended as follows:

254 **[Until July 1, 2002, this section will read as follows:]**

255 67-3-31. Proceedings for the revocation or suspension of any
256 permit authorizing the sale of beer or wine at retail for a
257 violation of any of the provisions of Section 67-3-53 may be

258 brought in the circuit or county court of the county in which the
259 licensed premises are located. Such proceedings shall be entitled
260 in the name of the state and against the permittee and shall be
261 instituted by filing a complaint with the clerk of the court. The
262 complaint may be filed by the county prosecuting attorney of the
263 county upon his own initiative or, then by the district attorney
264 of the district in which the county is located, and it shall be
265 mandatory upon the county prosecuting attorney, or district
266 attorney as the case may be, to file a complaint when requested to
267 do so by a peace officer or any person as hereinafter provided.
268 Any peace officer or any enforcement officer of the Alcoholic
269 Beverage Control Division who learns that a retail permittee
270 within his jurisdiction has violated any of the provisions of such
271 section shall file with the county prosecuting attorney of the
272 county in which the licensed premises are located, or, then with
273 the district attorney of the district in which such county is
274 located, an affidavit specifying in detail the facts alleged to
275 constitute such violation, and requesting that a complaint be
276 filed against the permittee for the revocation or suspension of
277 his permit. A like affidavit may be filed with the county
278 prosecuting attorney, or district attorney as the case may be, by
279 any person who resides, and has for at least one (1) year prior
280 thereto resided within the county in which the licensed premises
281 are located requesting that a complaint be filed for the
282 revocation or suspension of the permittee's permit. Promptly upon
283 receiving any such affidavit the county prosecuting attorney, or
284 district attorney, shall prepare a proper complaint, which shall
285 be signed and sworn to by the person or persons filing the
286 affidavit with him, and the county prosecuting attorney or
287 district attorney shall file the complaint with the clerk of the
288 circuit or county court.

289 **[From and after July 1, 2002, this section will read as**
290 **follows:]**

291 67-3-31. Proceedings for the revocation or suspension of any
292 permit authorizing the sale of beer or wine at retail for a
293 violation of any of the provisions of Section 67-3-53 may be
294 brought in the circuit or county court of the county in which the
295 licensed premises are located. Such proceedings shall be entitled
296 in the name of the state and against the permittee and shall be
297 instituted by filing a complaint with the clerk of the court. The
298 complaint may be filed by the county prosecuting attorney of the
299 county upon his own initiative or, then by the district attorney
300 of the district in which the county is located, and it shall be
301 mandatory upon the county prosecuting attorney, or district
302 attorney as the case may be, to file a complaint when requested to
303 do so by a peace officer or any person as hereinafter provided.
304 Any peace officer who learns that a retail permittee within his
305 jurisdiction has violated any of the provisions of such section
306 shall file with the county prosecuting attorney of the county in
307 which the licensed premises are located, or, then with the
308 district attorney of the district in which such county is located,
309 an affidavit specifying in detail the facts alleged to constitute
310 such violation, and requesting that a complaint be filed against
311 the permittee for the revocation or suspension of his permit. A
312 like affidavit may be filed with the county prosecuting attorney,
313 or district attorney as the case may be, by any person who
314 resides, and has for at least one (1) year prior thereto resided
315 within the county in which the licensed premises are located
316 requesting that a complaint be filed for the revocation or
317 suspension of the permittee's permit. Promptly upon receiving any
318 such affidavit the county prosecuting attorney, or district
319 attorney, shall prepare a proper complaint, which shall be signed
320 and sworn to by the person or persons filing the affidavit with
321 him, and the county prosecuting attorney or district attorney
322 shall file the complaint with the clerk of the circuit or county
323 court.

324 SECTION 4. Section 67-3-37, Mississippi Code of 1972, is
325 amended as follows:

326 **[Until July 1, 2002, this section will read as follows:]**

327 67-3-37. It shall be the duty of the county prosecuting
328 attorney or the district attorney, as the case may be, to file
329 complaints as provided in Section 67-3-31 and to prosecute
330 diligently and without delay all complaints filed by him.

331 It shall be the duty of all peace officers * * *, within
332 their jurisdiction, and all enforcement officers of the Alcoholic
333 Beverage Control Division to enforce the provisions of Section
334 67-3-53 and they shall frequently visit all licensed premises
335 within their jurisdiction to determine whether such permittees are
336 complying with the laws. They shall promptly investigate all
337 complaints made to them by any citizen relative to any alleged
338 violations of such section within their jurisdiction. When any
339 peace officer or enforcement officer of the Alcoholic Beverage
340 Control Division has knowledge of a violation of such section
341 committed by a permittee within his jurisdiction, it shall be his
342 duty forthwith to file an affidavit with the county prosecuting
343 attorney or district attorney requesting that a complaint be filed
344 for the revocation or suspension of the permit of the permittee.

345 **[From and after July 1, 2002, this section will read as**
346 **follows:]**

347 67-3-37. It shall be the duty of the county prosecuting
348 attorney or the district attorney, as the case may be, to file
349 complaints as provided in Section 67-3-31 and to prosecute
350 diligently and without delay all complaints filed by him.

351 It shall be the duty of all peace officers to enforce, within
352 their jurisdiction, the provisions of Section 67-3-53 and they
353 shall frequently visit all licensed premises within their
354 jurisdiction to determine whether such permittees are complying
355 with the laws. They shall promptly investigate all complaints
356 made to them by any citizen relative to any alleged violations of

357 such section within their jurisdiction. When any peace officer
358 has knowledge of a violation of such section committed by a
359 permittee within his jurisdiction, it shall be his duty forthwith
360 to file an affidavit with the county prosecuting attorney or
361 district attorney requesting that a complaint be filed for the
362 revocation or suspension of the permit of the permittee.

363 SECTION 5. This act shall take effect and be in force from
364 and after its passage.