

By: Representatives Reeves, Rogers, Moore  
(60th), Weathersby

To: Ways and Means

HOUSE BILL NO. 607

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7 GRANTED TO OFFICERS OF THE DIVISION SHALL BE REPEALED ON JULY 1,  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 2003; 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16 section shall be repealed on July 1, 2003.

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

19 [Until July 1, 2003, 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, 2003, 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, 2003, 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 of the State Tax Commission who learns  
270 that a retail permittee within his jurisdiction has violated any  
271 of the provisions of such section shall file with the county  
272 prosecuting attorney of the county in which the licensed premises  
273 are located, or, then with the district attorney of the district  
274 in which such county is located, an affidavit specifying in detail  
275 the facts alleged to constitute such violation, and requesting  
276 that a complaint be filed against the permittee for the revocation  
277 or suspension of his permit. A like affidavit may be filed with  
278 the county prosecuting attorney, or district attorney as the case  
279 may be, by any person who resides, and has for at least one (1)  
280 year prior thereto resided within the county in which the licensed  
281 premises 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, 2003, 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, 2003, 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 of the State Tax Commission to enforce  
334 the provisions of Section 67-3-53 and they shall frequently visit  
335 all licensed premises within their jurisdiction to determine  
336 whether such permittees are complying with the laws. They shall  
337 promptly investigate all complaints made to them by any citizen  
338 relative to any alleged violations of such section within their  
339 jurisdiction. When any peace officer or enforcement officer of  
340 the Alcoholic Beverage Control Division of the State Tax  
341 Commission has knowledge of a violation of such section committed  
342 by a permittee within his jurisdiction, it shall be his duty  
343 forthwith to file an affidavit with the county prosecuting  
344 attorney or district attorney requesting that a complaint be filed  
345 for the revocation or suspension of the permit of the permittee.

346           **[From and after July 1, 2003, this section will read as**  
347 **follows:]**

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

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



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

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

