HOUSE BILL NO. 1011

AN ACT TO AMEND SECTION 67-3-53, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR THE HOLDER OF A PERMIT TO SELL BEER OR LIGHT WINE AT RETAIL TO ALLOW PERSONS UNDER THE AGE OF 21 NOT IN THE COMPANY OF A PARENT, GUARDIAN OR SPOUSE WHO IS AT LEAST 21 YEARS OF AGE ON THE LICENSED PREMISES OF AN ESTABLISHMENT WHERE LIGHT WINE, BEER OR DISTILLED SPIRITS ARE ALLOWED TO BE CONSUMED ON THE PREMISES UNLESS SUCH ESTABLISHMENT IS REGULARLY USED FOR THE SERVING OF MEALS TO GUESTS; TO AMEND SECTION 67-3-69, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTIES FOR CONVICTION OF THE HOLDER OF A PERMIT TO SELL BEER OR LIGHT WINE AT RETAIL OF UNLAWFULLY SELLING BEER OR LIGHT WINE TO A MINOR; TO REQUIRE EVERY PERSON WHO IS EMPLOYED BY A PREMISES LICENSED TO SELL BEER OR LIGHT WINE TO BE INFORMED AT THE TIME OF HIRING BY THE EMPLOYER OF THE POSSIBLE PENALTIES THAT MAY BE IMPOSED FOR UNLAWFULLY SELLING BEER OR LIGHT WINE TO A MINOR; TO AMEND SECTION 67-3-70, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTIES FOR CONVICTION OF A MINOR OF UNLAWFULLY PURCHASING OR POSSESSING BEER OR LIGHT WINE AND TO PROVIDE FOR SUSPENSION OF SUCH MINOR'S DRIVER'S LICENSE; TO BRING FORWARD SECTION 67-1-81, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES PENALTIES FOR THE SALE OF ALCOHOLIC BEVERAGES TO A MINOR; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 67-3-53, Mississippi Code of 1972, is amended as follows:

67-3-53. In addition to any act declared to be unlawful by this chapter, or by Sections 27-71-301 through 27-71-347, and Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be unlawful for the holder of a permit authorizing the sale of beer or light wine at retail or for the employee of the holder of such a permit:

(a) To sell or give to be consumed in or upon any licensed premises any beer or light wine between the hours of midnight and seven o'clock the following morning or during any time the licensed premises may be required to be closed by municipal ordinance or order of the board of supervisors; provided, however, in areas where the sale of alcoholic beverages
is legal under the provisions of the Local Option Alcoholic
Beverage Control Law and the hours for selling such alcoholic
beverages have been extended beyond midnight for on-premises
permittees under Section 67-1-37, the hours for selling beer or
light wines are likewise extended in areas where the sale of beer
and light wines is legal in accordance with the provisions of this
chapter.

(b) To sell, give or furnish any beer or light wine to
any person visibly or noticeably intoxicated, or to any insane
person, or to any habitual drunkard, or to any person under the
age of twenty-one (21) years.

(c) To permit in the premises any lewd, immoral or
improper entertainment, conduct or practices.

(d) To permit loud, boisterous or disorderly conduct of
any kind upon the premises or to permit the use of loud musical
instruments if either or any of the same may disturb the peace and
quietude of the community wherein such business is located.

(e) To permit persons of ill repute, known criminals,
prostitutes or minors to frequent the licensed premises, except
minors accompanied by parents or guardians, or under proper
supervision.

(f) To permit or suffer illegal gambling or the
operation of illegal games of chance upon the licensed premises.

(g) To receive, possess or sell on the licensed
premises any beverage of any kind or character containing more
than five percent (5%) of alcohol by weight unless the licensee
also possesses an on-premises permit under the Local Option
Alcoholic Beverage Control Law.

(h) To allow any person under the age of twenty-one
(21) years not in the company of a parent, guardian or spouse who
is at least twenty-one (21) years of age upon the licensed
premises of an establishment where beer, light wine or distilled
spirits are allowed to be consumed on the premises unless such
establishment is regularly used and kept open for the serving of meals to guests for compensation and which has suitable seating facilities for guests.

SECTION 2. Section 67-3-69, Mississippi Code of 1972, is amended as follows:

67-3-69. (1) Except as to Sections 67-3-17, 67-3-23, 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of this chapter or of any rule or regulation of the commissioner, shall be a misdemeanor and, where the punishment therefor is not elsewhere prescribed herein, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or imprisonment for not more than six (6) months, or both, in the discretion of the court.

If any person so convicted shall be the holder of any permit or license issued by the commissioner under authority of this chapter, such permit or license shall from and after the date of such conviction be void and the holder thereof shall not thereafter, for a period of one (1) year from the date of such conviction, be entitled to any permit or license for any purpose authorized by this chapter. Upon conviction of the holder of any permit or license, the appropriate law enforcement officer shall seize the permit or license and transmit it to the commissioner.

(2) (a) Any person who shall violate any provision of Sections 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

(b) Any person who shall violate any provision of Section 67-3-57 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both, in the discretion of the court.
of the court. Any person convicted of violating any provision of
the sections referred to in this subsection shall forfeit his
permit, and shall not thereafter be permitted to engage in any
business taxable under the provisions of Sections 27-71-301
through 27-71-347.

(3) If the holder of a permit, or the employee of the holder
of a permit, shall be convicted of selling any beer or wine to any
person under the age of twenty-one (21) years from the licensed
premises in violation of Section 67-3-53(b), then, in addition to
any other penalty provided for by law, the holder of the permit
may be punished as follows:

(a) For the first offense on the licensed premises, the
holder of the permit shall be fined in an amount not less than One
Hundred Dollars ($100.00) nor more than Five Hundred Dollars
($500.00), imprisoned for a term of not less than six (6) months
nor more than one (1) year, and * * * the sale of beer or wine on
the premises from which the sale occurred may be prohibited for
three (3) months.

(b) For a second offense occurring on the licensed
premises within twelve (12) months of the first offense, the
holder of the permit shall be fined in an amount not less than
Five Hundred Dollars ($500.00) nor more than One Thousand Dollars
($1,000.00), imprisoned for a term of not less than one (1) year
nor more than three (3) years, and * * * the sale of beer or wine
on the premises from which the sale occurred may be prohibited for
six (6) months.

(c) For a third or subsequent offense occurring on the
licensed premises within twelve (12) months of the first, the
holder of the permit shall be fined in an amount not less than One
Thousand Dollars (1,000.00) nor more than Five Thousand Dollars
($5,000.00), imprisoned for a term of not less than three (3)
years nor more than five (5) years, and * * * the sale of beer or
wine on the premises from which the sale occurred may be prohibited for one (1) year.

(4) A person who sells any beer or wine to a person under the age of twenty-one (21) years shall not be guilty of a violation of Section 67-3-53(b) if the person under the age of twenty-one (21) years represents himself to be twenty-one (21) years of age or older by displaying an apparently valid Mississippi driver's license containing a physical description consistent with his appearance or by displaying some other apparently valid identification document containing a picture and physical description consistent with his appearance for the purpose of inducing the person to sell beer or wine to him. Every person who is employed by a premises licensed to sell beer or light wine shall be informed at the time of hiring by the employer of the possible penalties that may be imposed for unlawfully selling beer or light wine to a minor.

(5) If the holder of a permit to operate a brewpub is convicted of violating the provisions of Section 67-3-22(3), then, in addition to any other provision provided for by law, the holder of the permit shall be punished as follows:

(a) For the first offense, the holder of a permit to operate a brewpub may be fined in an amount not to exceed Five Hundred Dollars ($500.00).

(b) For a second offense occurring within twelve (12) months of the first offense, the holder of a permit to operate a brewpub may be fined an amount not to exceed One Thousand Dollars ($1,000.00).

(c) For a third or subsequent offense occurring within twelve (12) months of the first offense, the holder of a permit to operate a brewpub may be fined an amount not to exceed Five Thousand Dollars ($5,000.00) and the permit to operate a brewpub shall be suspended for thirty (30) days.
SECTION 3. Section 67-3-70, Mississippi Code of 1972, is amended as follows:

67-3-70. (1) Except as otherwise provided by Section 67-3-54, any person under the age of twenty-one (21) years who purchases or possesses any light wine or beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than Two Thousand Dollars ($2,000.00), by a sentence to not less than twenty (20) days nor more than one hundred thirty (130) days of community service, and by suspension of the driver's license and driving privileges of such person for not less than six (6) months nor more than one (1) year.

(2) Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any light wine or beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00) and/or a sentence to not more than thirty (30) days community service.

(3) Except as otherwise provided by Section 67-3-54, any person who knowingly purchases light wine or beer for, or gives or makes available light wine or beer to a person under the age of twenty-one (21) years, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) and/or a sentence to not more than thirty (30) days community service.

(4) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.
(5) Any person who has been charged with a violation of subsections (1) or (2) of this section may, not sooner than one year after the dismissal and discharge or completion of any sentence and/or payment of any fine, apply to the court for an order to expunge from all official records all recordation relating to his arrest, trial, finding or plea of guilty, and dismissal and discharge. If the court determines that such person was dismissed and the proceedings against him discharged or that such person had satisfactorily served his sentence and/or paid his fine, it shall enter such order.

SECTION 4. Section 67-1-81, Mississippi Code of 1972, is brought forward as follows:

67-1-81. Any permittee or other person who shall sell, furnish, dispose of, give, or cause to be sold, furnished, disposed of, or given, any alcoholic beverage to any person under the age of twenty-one (21) years shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) for a first offense. For a second or subsequent offense, such permittee or other person shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Two Thousand Dollars ($2,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment in the discretion of the court. Upon conviction of a second offense under the provisions of this section the permit of any permittee so convicted shall be automatically and permanently revoked.

Any person under the age of twenty-one (21) years who purchases, receives, or has in his or her possession in any public place, any alcoholic beverages, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars ($100.00). Provided, that clearing or busing tables that have glasses or other containers that contain or did contain alcoholic beverages, or stocking, bagging or otherwise handling
purchases of alcoholic beverages shall not be deemed possession of alcoholic beverages for the purposes of this section. Provided further, that a person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if in the scope of his employment by the holder of an on-premises retailer’s permit. This exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity of bartender. Any person under the age of twenty-one (21) who knowingly makes a false statement to the effect that he or she is twenty-one (21) years old or older to any person engaged in the sale of alcoholic beverages for the purpose of obtaining the same shall be guilty of a misdemeanor and shall be punished by a fine of not more than Two Hundred Dollars ($200.00), and on failure to pay such fine and all costs shall be imprisoned for not less than five (5) nor more than thirty (30) days in the county jail.

SECTION 5. This act shall take effect and be in force from and after July 1, 2002.