

By: Representative Moore (60th)

To: Judiciary A

HOUSE BILL NO. 510

1 AN ACT TO AMEND SECTIONS 63-11-30, 67-1-83, 67-3-53, 67-3-69
 2 AND 67-3-70, MISSISSIPPI CODE OF 1972, TO REQUIRE A DISTINCTIVE
 3 PUNCH ON THE DRIVER'S LICENSE OF PERSONS CONVICTED OF VIOLATING
 4 THE IMPLIED CONSENT LAW; TO PROHIBIT THE SALE OF ALCOHOLIC
 5 BEVERAGES, BEER AND LIGHT WINES TO PERSONS CONVICTED OF VIOLATING
 6 THE IMPLIED CONSENT LAW; TO REQUIRE EXAMINATION OF DRIVER'S
 7 LICENSES TO DETERMINE IF BUYERS HAVE BEEN CONVICTED UNDER THE
 8 IMPLIED CONSENT LAW; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 63-11-30, Mississippi Code of 1972, is
 11 amended as follows:

12 63-11-30. (1) It is unlawful for any person to drive or
 13 otherwise operate a vehicle within this state who (a) is under the
 14 influence of intoxicating liquor; (b) is under the influence of
 15 any other substance which has impaired such person's ability to
 16 operate a motor vehicle; (c) has an alcohol concentration of eight
 17 one-hundredths percent (.08%) or more for persons who are above
 18 the legal age to purchase alcoholic beverages under state law, or
 19 two one-hundredths percent (.02%) or more for persons who are
 20 below the legal age to purchase alcoholic beverages under state
 21 law, in the person's blood based upon grams of alcohol per one
 22 hundred (100) milliliters of blood or grams of alcohol per two
 23 hundred ten (210) liters of breath as shown by a chemical analysis
 24 of such person's breath, blood or urine administered as authorized
 25 by this chapter; (d) is under the influence of any drug or
 26 controlled substance, the possession of which is unlawful under
 27 the Mississippi Controlled Substances Law; or (e) has an alcohol
 28 concentration of four one-hundredths percent (.04%) or more in the
 29 person's blood, based upon grams of alcohol per one hundred (100)
 30 milliliters of blood or grams of alcohol per two hundred ten (210)



31 liters of breath as shown by a chemical analysis of such person's
32 blood, breath or urine, administered as authorized by this chapter
33 for persons operating a commercial motor vehicle.

34 (2) (a) Except as otherwise provided in subsection (3),
35 upon conviction of any person for the first offense of violating
36 subsection (1) of this section where chemical tests provided for
37 under Section 63-11-5 were given, or where chemical test results
38 are not available, such person shall be fined not less than Two
39 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars
40 (\$1,000.00), or imprisoned for not more than forty-eight (48)
41 hours in jail or both; and the court shall order such person to
42 attend and complete an alcohol safety education program as
43 provided in Section 63-11-32. The court may substitute attendance
44 at a victim impact panel instead of forty-eight (48) hours in
45 jail. In addition, the Department of Public Safety, the
46 Commissioner of Public Safety or his duly authorized agent shall,
47 after conviction and upon receipt of the court abstract, suspend
48 the driver's license and driving privileges of such person for a
49 period of not less than ninety (90) days and until such person
50 attends and successfully completes an alcohol safety education
51 program as herein provided; provided, however, in no event shall
52 such period of suspension exceed one (1) year. Commercial driving
53 privileges shall be suspended as provided in Section 63-1-83.

54 The circuit court having jurisdiction in the county in which
55 the conviction was had or the circuit court of the person's county
56 of residence may reduce the suspension of driving privileges under
57 Section 63-11-30(2) (a) if the denial of which would constitute a
58 hardship on the offender, except that no court may issue such an
59 order reducing the suspension of driving privileges under this
60 subsection until thirty (30) days have elapsed from the effective
61 date of the suspension. Hardships shall only apply to first
62 offenses under Section 63-11-30(1), and shall not apply to second,
63 third or subsequent convictions of any person violating subsection



64 (1) of this section. A reduction of suspension on the basis of
65 hardship shall not be available to any person who refused to
66 submit to a chemical test upon the request of a law enforcement
67 officer as provided in Section 63-11-5. When the petition is
68 filed, such person shall pay to the circuit clerk of the court
69 where the petition is filed a fee of Fifty Dollars (\$50.00), which
70 shall be deposited into the State General Fund to the credit of a
71 special fund hereby created in the State Treasury to be used for
72 alcohol or drug abuse treatment and education, upon appropriation
73 by the Legislature. This fee shall be in addition to any other
74 court costs or fees required for the filing of petitions.

75 The petition filed under the provisions of this subsection
76 shall contain the specific facts which the petitioner alleges to
77 constitute a hardship and the driver's license number of the
78 petitioner. A hearing may be held on any petition filed under
79 this subsection only after ten (10) days' prior written notice to
80 the Commissioner of Public Safety, or his designated agent, or the
81 attorney designated to represent the state. At such hearing, the
82 court may enter an order reducing the period of suspension.

83 The order entered under the provisions of this subsection
84 shall contain the specific grounds upon which hardship was
85 determined, and shall order the petitioner to attend and complete
86 an alcohol safety education program as provided in Section
87 63-11-32. A certified copy of such order shall be delivered to
88 the Commissioner of Public Safety by the clerk of the court within
89 five (5) days of the entry of the order. The certified copy of
90 such order shall contain information which will identify the
91 petitioner, including, but not limited to, the name, mailing
92 address, street address, social security number and driver's
93 license number of the petitioner.

94 At any time following at least thirty (30) days of suspension
95 for a first offense violation of this section, the court may grant
96 the person hardship driving privileges upon written petition of



97 the defendant, if it finds reasonable cause to believe that
98 revocation would hinder the person's ability to:

99 (i) Continue his employment;

100 (ii) Continue attending school or an educational
101 institution; or

102 (iii) Obtain necessary medical care.

103 Proof of the hardship shall be established by clear and
104 convincing evidence which shall be supported by independent
105 documentation.

106 (b) Except as otherwise provided in subsection (3),
107 upon any second conviction of any person violating subsection (1)
108 of this section, the offenses being committed within a period of
109 five (5) years, such person shall be fined not less than Six
110 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred
111 Dollars (\$1,500.00), shall be imprisoned not less than five (5)
112 days nor more than one (1) year and sentenced to community service
113 work for not less than ten (10) days nor more than one (1) year.
114 The minimum penalties shall not be suspended or reduced by the
115 court and no prosecutor shall offer any suspension or sentence
116 reduction as part of a plea bargain. Except as may otherwise be
117 provided by paragraph (d) of this subsection, the Commissioner of
118 Public Safety shall suspend the driver's license of such person
119 for two (2) years. Suspension of a commercial driver's license
120 shall be governed by Section 63-1-83. Upon any second conviction
121 as described in this paragraph, the court shall ascertain whether
122 the defendant is married, and if the defendant is married shall
123 obtain the name and address of the defendant's spouse; the clerk
124 of the court shall submit this information to the Department of
125 Public Safety. Further, the commissioner shall notify in writing,
126 by certified mail, return receipt requested, the owner of the
127 vehicle and the spouse, if any, of the person convicted of the
128 second violation of the possibility of forfeiture of the vehicle
129 if such person is convicted of a third violation of subsection (1)



130 of this section. The owner of the vehicle and the spouse shall be
131 considered notified under this paragraph if the notice is
132 deposited in the United States mail and any claim that the notice
133 was not in fact received by the addressee shall not affect a
134 subsequent forfeiture proceeding.

135 For any second or subsequent conviction of any person under
136 this section, the person shall also be subject to the penalties
137 set forth in Section 63-11-31.

138 (c) Except as otherwise provided in subsection (3), for
139 any third or subsequent conviction of any person violating
140 subsection (1) of this section, the offenses being committed
141 within a period of five (5) years, such person shall be guilty of
142 a felony and fined not less than Two Thousand Dollars (\$2,000.00)
143 nor more than Five Thousand Dollars (\$5,000.00), shall be
144 imprisoned not less than one (1) year nor more than five (5) years
145 in the State Penitentiary. The minimum penalties shall not be
146 suspended or reduced by the court and no prosecutor shall offer
147 any suspension or sentence reduction as part of a plea bargain.
148 The law enforcement agency shall seize the vehicle operated by any
149 person charged with a third or subsequent violation of subsection
150 (1) of this section, if such convicted person was driving the
151 vehicle at the time the offense was committed. Such vehicle may
152 be forfeited in the manner provided by Sections 63-11-49 through
153 63-11-53. Except as may otherwise be provided by paragraph (e) of
154 this subsection, the Commissioner of Public Safety shall suspend
155 the driver's license of such person for five (5) years. The
156 suspension of a commercial driver's license shall be governed by
157 Section 63-1-83.

158 (d) Except as otherwise provided in subsection (3), any
159 person convicted of a second violation of subsection (1) of this
160 section shall receive an in-depth diagnostic assessment, and if as
161 a result of such assessment is determined to be in need of
162 treatment of his alcohol and/or drug abuse problem, such person



163 shall successfully complete treatment of his alcohol and/or drug
164 abuse problem at a program site certified by the Department of
165 Mental Health. Such person shall be eligible for reinstatement of
166 his driving privileges upon the successful completion of such
167 treatment after a period of one (1) year after such person's
168 driver's license is suspended. Each person who receives a
169 diagnostic assessment shall pay a fee representing the cost of
170 such assessment. Each person who participates in a treatment
171 program shall pay a fee representing the cost of such treatment.

172 (e) Except as otherwise provided in subsection (3), any
173 person convicted of a third or subsequent violation of subsection
174 (1) of this section shall receive an in-depth diagnostic
175 assessment, and if as a result of such assessment is determined to
176 be in need of treatment of his alcohol and/or drug abuse problem,
177 such person shall enter an alcohol and/or drug abuse program
178 approved by the Department of Mental Health for treatment of such
179 person's alcohol and/or drug abuse problem. If such person
180 successfully completes such treatment, such person shall be
181 eligible for reinstatement of his driving privileges after a
182 period of three (3) years after such person's driver's license is
183 suspended.

184 (f) The Department of Public Safety shall promulgate
185 rules and regulations for the use of interlock ignition devices as
186 provided in Section 63-11-31 and consistent with the provisions
187 therein. Such rules and regulations shall provide for the
188 calibration of such devices and shall provide that the cost of the
189 use of such systems shall be borne by the offender. The
190 Department of Public Safety shall approve which vendors of such
191 devices shall be used to furnish such systems.

192 (3) (a) This subsection shall be known and may be cited as
193 Zero Tolerance for Minors. The provisions of this subsection
194 shall apply only when a person under the age of twenty-one (21)
195 years has a blood alcohol concentration two one-hundredths percent



196 (.02%) or more, but lower than eight one-hundredths percent
197 (.08%). If such person's blood alcohol concentration is eight
198 one-hundredths percent (.08%) or more, the provisions of
199 subsection (2) shall apply.

200 (b) Upon conviction of any person under the age of
201 twenty-one (21) years for the first offense of violating
202 subsection (1) of this section where chemical tests provided for
203 under Section 63-11-5 were given, or where chemical test results
204 are not available, such person shall have his driver's license
205 suspended for ninety (90) days and shall be fined Two Hundred
206 Fifty Dollars (\$250.00); and the court shall order such person to
207 attend and complete an alcohol safety education program as
208 provided in Section 63-11-32. The court may also require
209 attendance at a victim impact panel.

210 The circuit court having jurisdiction in the county in which
211 the conviction was had or the circuit court of the person's county
212 of residence may reduce the suspension of driving privileges under
213 Section 63-11-30(2)(a) if the denial of which would constitute a
214 hardship on the offender, except that no court may issue such an
215 order reducing the suspension of driving privileges under this
216 subsection until thirty (30) days have elapsed from the effective
217 date of the suspension. Hardships shall only apply to first
218 offenses under Section 63-11-30(1), and shall not apply to second,
219 third or subsequent convictions of any person violating subsection
220 (1) of this section. A reduction of suspension on the basis of
221 hardship shall not be available to any person who refused to
222 submit to a chemical test upon the request of a law enforcement
223 officer as provided in Section 63-11-5. When the petition is
224 filed, such person shall pay to the circuit clerk of the court
225 where the petition is filed a fee of Fifty Dollars (\$50.00), which
226 shall be deposited into the State General Fund to the credit of a
227 special fund hereby created in the State Treasury to be used for
228 alcohol or drug abuse treatment and education, upon appropriation



229 by the Legislature. This fee shall be in addition to any other
230 court costs or fees required for the filing of petitions.

231 The petition filed under the provisions of this subsection
232 shall contain the specific facts which the petitioner alleges to
233 constitute a hardship and the driver's license number of the
234 petitioner. A hearing may be held on any petition filed under
235 this subsection only after ten (10) days' prior written notice to
236 the Commissioner of Public Safety, or his designated agent, or the
237 attorney designated to represent the state. At such hearing, the
238 court may enter an order reducing the period of suspension.

239 The order entered under the provisions of this subsection
240 shall contain the specific grounds upon which hardship was
241 determined, and shall order the petitioner to attend and complete
242 an alcohol safety education program as provided in Section
243 63-11-32. A certified copy of such order shall be delivered to
244 the Commissioner of Public Safety by the clerk of the court within
245 five (5) days of the entry of the order. The certified copy of
246 such order shall contain information which will identify the
247 petitioner, including, but not limited to, the name, mailing
248 address, street address, social security number and driver's
249 license number of the petitioner.

250 At any time following at least thirty (30) days of suspension
251 for a first offense violation of this section, the court may grant
252 the person hardship driving privileges upon written petition of
253 the defendant, if it finds reasonable cause to believe that
254 revocation would hinder the person's ability to:

- 255 (i) Continue his employment;
- 256 (ii) Continue attending school or an educational
257 institution; or
- 258 (iii) Obtain necessary medical care.

259 Proof of the hardship shall be established by clear and
260 convincing evidence which shall be supported by independent
261 documentation.



262 (c) Upon any second conviction of any person under the
263 age of twenty-one (21) years violating subsection (1) of this
264 section, the offenses being committed within a period of five (5)
265 years, such person shall be fined not more than Five Hundred
266 Dollars (\$500.00) and shall have his driver's license suspended
267 for one (1) year.

268 (d) For any third or subsequent conviction of any
269 person under the age of twenty-one (21) years violating subsection
270 (1) of this section, the offenses being committed within a period
271 of five (5) years, such person shall be fined not more than One
272 Thousand Dollars (\$1,000.00) and shall have his driver's license
273 suspended until he reaches the age of twenty-one (21) or for two
274 (2) years, whichever is longer.

275 (e) Any person under the age of twenty-one (21) years
276 convicted of a second violation of subsection (1) of this section,
277 may have the period that his driver's license is suspended reduced
278 if such person receives an in-depth diagnostic assessment, and as
279 a result of such assessment is determined to be in need of
280 treatment of his alcohol and/or drug abuse problem and
281 successfully completes treatment of his alcohol and/or drug abuse
282 problem at a program site certified by the Department of Mental
283 Health. Such person shall be eligible for reinstatement of his
284 driving privileges upon the successful completion of such
285 treatment after a period of six (6) months after such person's
286 driver's license is suspended. Each person who receives a
287 diagnostic assessment shall pay a fee representing the cost of
288 such assessment. Each person who participates in a treatment
289 program shall pay a fee representing the cost of such treatment.

290 (f) Any person under the age of twenty-one (21) years
291 convicted of a third or subsequent violation of subsection (1) of
292 this section shall complete treatment of an alcohol and/or drug
293 abuse program at a site certified by the Department of Mental
294 Health.



295 (g) The court shall have the discretion to rule that a
296 first offense of this subsection by a person under the age of
297 twenty-one (21) years shall be nonadjudicated. Such person shall
298 be eligible for nonadjudication only once. The Department of
299 Public Safety shall maintain a confidential registry of all cases
300 which are nonadjudicated as provided in this paragraph. A judge
301 who rules that a case is nonadjudicated shall forward such ruling
302 to the Department of Public Safety. Judges and prosecutors
303 involved in implied consent violations shall have access to the
304 confidential registry for the purpose of determining
305 nonadjudication eligibility. A record of a person who has been
306 nonadjudicated shall be maintained for five (5) years or until
307 such person reaches the age of twenty-one (21) years. Any person
308 whose confidential record has been disclosed in violation of this
309 paragraph shall have a civil cause of action against the person
310 and/or agency responsible for such disclosure.

311 (4) In addition to the other penalties provided in this
312 section, every person refusing a law enforcement officer's request
313 to submit to a chemical test of his breath as provided in this
314 chapter, or who was unconscious at the time of a chemical test and
315 refused to consent to the introduction of the results of such test
316 in any prosecution, shall suffer an additional suspension of
317 driving privileges as follows:

318 The Commissioner of Public Safety or his authorized agent
319 shall suspend the driver's license or permit to drive or deny the
320 issuance of a license or permit to such person as provided for
321 first, second and third or subsequent offenders in subsection (2)
322 of this section. Such suspension shall be in addition to any
323 suspension imposed pursuant to subsection (1) of Section 63-11-23.
324 The minimum suspension imposed under this subsection shall not be
325 reduced and no prosecutor is authorized to offer a reduction of
326 such suspension as part of a plea bargain.



327 (5) Every person who operates any motor vehicle in violation
328 of the provisions of subsection (1) of this section and who in a
329 negligent manner causes the death of another or mutilates,
330 disfigures, permanently disables or destroys the tongue, eye, lip,
331 nose or any other limb, organ or member of another shall, upon
332 conviction, be guilty of a felony and shall be committed to the
333 custody of the State Department of Corrections for a period of
334 time of not less than five (5) years and not to exceed twenty-five
335 (25) years.

336 (6) Upon conviction of any violation of subsection (1) of
337 this section, the trial judge shall sign in the place provided on
338 the traffic ticket, citation or affidavit stating that the person
339 arrested either employed an attorney or waived his right to an
340 attorney after having been properly advised. If the person
341 arrested employed an attorney, the name, address and telephone
342 number of the attorney shall be written on the ticket, citation or
343 affidavit. The judge shall cause a copy of the traffic ticket,
344 citation or affidavit, and any other pertinent documents
345 concerning the conviction, to be sent to the Commissioner of
346 Public Safety. A copy of the traffic ticket, citation or
347 affidavit and any other pertinent documents, having been attested
348 as true and correct by the Commissioner of Public Safety, or his
349 designee, shall be sufficient proof of the conviction for purposes
350 of determining the enhanced penalty for any subsequent convictions
351 of violations of subsection (1) of this section.

352 (7) Convictions in other states of violations for driving or
353 operating a vehicle while under the influence of an intoxicating
354 liquor or while under the influence of any other substance that
355 has impaired the person's ability to operate a motor vehicle
356 occurring after July 1, 1992, shall be counted for the purposes of
357 determining if a violation of subsection (1) of this section is a
358 first, second, third or subsequent offense and the penalty that



359 shall be imposed upon conviction for a violation of subsection (1)
360 of this section.

361 (8) For the purposes of determining how to impose the
362 sentence for a second, third or subsequent conviction under this
363 section, the indictment shall not be required to enumerate
364 previous convictions. It shall only be necessary that the
365 indictment state the number of times that the defendant has been
366 convicted and sentenced within the past five (5) years under this
367 section to determine if an enhanced penalty shall be imposed. The
368 amount of fine and imprisonment imposed in previous convictions
369 shall not be considered in calculating offenses to determine a
370 second, third or subsequent offense of this section.

371 (9) Any person under the legal age to obtain a license to
372 operate a motor vehicle convicted under this section shall not be
373 eligible to receive such license until the person reaches the age
374 of eighteen (18) years.

375 (10) Suspension of driving privileges for any person
376 convicted of violations of Section 63-11-30(1) shall run
377 consecutively.

378 (11) The court may order the use of any ignition interlock
379 device as provided in Section 63-11-31.

380 (12) The judge in any conviction under this section shall
381 punch the driver's license of each person convicted with a
382 distinctive punch to be designed by the Department of Public
383 Safety which designates such person as an implied consent
384 offender. The driver's license of such person shall bear the
385 punch for the period of the sentence. No person with a driver's
386 license which has been punched as provided by this subsection
387 shall be allowed to purchase any alcoholic beverages during the
388 period of the sentence.

389 **SECTION 2.** Section 67-1-83, Mississippi Code of 1972, is
390 amended as follows:



391 67-1-83. (1) It shall be unlawful for any permittee or
392 other person to sell or furnish any alcoholic beverage to any
393 person who is known to be insane or mentally defective, or to any
394 person who is visibly intoxicated, or to any person who is known
395 to habitually drink alcoholic beverages to excess, or to any
396 person who is known to be an habitual user of narcotics or other
397 habit-forming drugs. It shall also be unlawful for the holder of
398 any package retailer's permit to sell any alcoholic beverages
399 except by delivery in person to the purchaser at the place of
400 business of the permittee.

401 (2) It shall be unlawful for any permittee or other person
402 to sell or furnish any alcoholic beverage to any person to whom
403 the commission has, after investigation, decided to prohibit the
404 sale of such beverages because of an appeal to the commission so
405 to do by the husband, wife, father, mother, brother, sister,
406 child, or employer of such person. The interdiction in such cases
407 shall last until removed by the commission, but no person shall be
408 held to have violated this subsection unless he has been informed
409 by the commission, by registered letter, that it is forbidden to
410 sell to such individual or unless such fact is otherwise known to
411 such permittee or other person.

412 (3) It shall be unlawful for any holder of a package
413 retailer's permit, or any employee or agent thereof, engaged
414 solely in the business of package retail sales under this chapter
415 to sell or furnish any alcoholic beverage before 10:00 a.m. and
416 after 10:00 p.m. or to sell alcoholic beverages on Sunday and
417 Christmas Day.

418 (4) Any person who shall violate any of the provisions of
419 this section shall be guilty of a misdemeanor and, upon
420 conviction, shall be punished by a fine of not more than Five
421 Hundred Dollars (\$500.00) or by imprisonment in the county jail
422 for a term of not more than six (6) months or by both such fine
423 and imprisonment, in the discretion of the court. In addition,



424 the commission shall forthwith revoke the permit of any permittee
425 who violates the provisions of this section.

426 (5) It shall be unlawful to sell any alcoholic beverage to
427 any person convicted of a violation of Section 63-11-30. Persons
428 selling alcoholic beverages shall examine the driver's license of
429 all persons purchasing alcoholic beverages to determine if the
430 distinctive punch as provided in Section 63-11-30(10) is on such
431 person's driver's license.

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

434 67-3-53. In addition to any act declared to be unlawful by
435 this chapter, or by Sections 27-71-301 through 27-71-347, and
436 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be
437 unlawful for the holder of a permit authorizing the sale of beer
438 or light wine at retail or for the employee of the holder of such
439 a permit:

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

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



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

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

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

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

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

474 (h) To sell any beer or light wine to a person
475 convicted of a violation of Section 63-11-30. Persons selling
476 beer or light wine shall examine the driver's license of all
477 persons purchasing beer or light wine to determine if the
478 distinctive punch as provided in Section 63-11-30(12) is on such
479 person's driver's license.

480 **SECTION 4.** Section 67-3-69, Mississippi Code of 1972, is
481 amended as follows:

482 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
483 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
484 this chapter or of any rule or regulation of the commissioner,
485 shall be a misdemeanor and, where the punishment therefor is not
486 elsewhere prescribed herein, shall be punished by a fine of not
487 more than Five Hundred Dollars (\$500.00) or imprisonment for not
488 more than six (6) months, or both, in the discretion of the court.
489 If any person so convicted shall be the holder of any permit or



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

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

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

515 (3) If the holder of a permit, or the employee of the holder
516 of a permit, shall be convicted of selling any beer or wine to any
517 person under the age of twenty-one (21) years from the licensed
518 premises in violation of Section 67-3-53(b), or to a person
519 convicted of a violation of Section 63-11-30 in violation of
520 Section 67-3-53(h), then, in addition to any other penalty
521 provided for by law, the holder of the permit, or employee of the
522 holder of a permit, may be punished as follows:



523 (a) For the first offense on the licensed premises, by
524 a fine of not less than Two Hundred Dollars (\$200.00) nor more
525 than One Thousand Dollars (\$1,000.00) and/or the sale of beer or
526 wine on the premises from which the sale occurred may be
527 prohibited for three (3) months.

528 (b) For a second offense occurring on the licensed
529 premises within twelve (12) months of the first offense, by a fine
530 of not less than Two Hundred Dollars (\$200.00) nor more than One
531 Thousand Five Hundred Dollars (\$1,500.00) and/or the sale of beer
532 or wine on the premises from which the sale occurred may be
533 prohibited for six (6) months.

534 (c) For a third or subsequent offense occurring on the
535 licensed premises within twelve (12) months of the first, by a
536 fine of not less than One Thousand Dollars (\$1,000.00) nor more
537 than Five Thousand Dollars (\$5,000.00) and/or the sale of beer or
538 wine on the premises from which the sale occurred may be
539 prohibited for one (1) year.

540 (4) A person who sells any beer or wine to a person under
541 the age of twenty-one (21) years shall not be guilty of a
542 violation of Section 67-3-53(b) if the person under the age of
543 twenty-one (21) years represents himself to be twenty-one (21)
544 years of age or older by displaying an apparently valid
545 Mississippi driver's license containing a physical description
546 consistent with his appearance or by displaying some other
547 apparently valid identification document containing a picture and
548 physical description consistent with his appearance for the
549 purpose of inducing the person to sell beer or wine to him.

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



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

557 (b) For a second offense occurring within twelve (12)
558 months of the first offense, the holder of a permit to operate a
559 brewpub may be fined an amount not to exceed One Thousand Dollars
560 (\$1,000.00).

561 (c) For a third or subsequent offense occurring within
562 twelve (12) months of the first offense, the holder of a permit to
563 operate a brewpub may be fined an amount not to exceed Five
564 Thousand Dollars (\$5,000.00) and the permit to operate a brewpub
565 shall be suspended for thirty (30) days.

566 **SECTION 5.** Section 67-3-70, Mississippi Code of 1972, is
567 amended as follows:

568 67-3-70. (1) Except as otherwise provided by Section
569 67-3-54, any person under the age of twenty-one (21) years who
570 purchases or possesses any light wine or beer shall be guilty of a
571 misdemeanor, and upon conviction shall be punished by a fine of
572 not less than Two Hundred Dollars (\$200.00) nor more than Five
573 Hundred Dollars (\$500.00) and a sentence to not more than thirty
574 (30) days community service.

575 (2) Any person under the age of twenty-one (21) years who
576 falsely states he is twenty-one (21) years of age or older or
577 presents any document that indicates he is twenty-one (21) years
578 of age or older for the purpose of purchasing or possessing any
579 light wine or beer shall be guilty of a misdemeanor, and upon
580 conviction shall be punished by a fine of not less than Two
581 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
582 (\$500.00) and a sentence to not more than thirty (30) days
583 community service.

584 (3) Except as otherwise provided by Section 67-3-54, any
585 person who knowingly purchases light wine or beer for, or gives or
586 makes available light wine or beer to a person under the age of



587 twenty-one (21) years, or who violates the provisions of Section
588 67-3-53(h), shall be guilty of a misdemeanor and upon conviction
589 shall be punished by a fine of not less than Two Hundred Dollars
590 (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a
591 sentence to not more than thirty (30) days community service.

592 (4) The term "community service" as used in this section
593 shall mean work, projects or services for the benefit of the
594 community assigned, supervised and recorded by appropriate public
595 officials.

596 (5) If a person under the age of twenty-one (21) years is
597 convicted or enters a plea of guilty of violating subsection (1)
598 or subsection (2) of this section, the trial judge, in lieu of the
599 penalties otherwise provided under this section, shall suspend the
600 minor's driver's license by taking and keeping it in the custody
601 of the court for a period of time not to exceed ninety (90) days.
602 The judge so ordering the suspension shall enter upon his docket
603 "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF
604 CONVICTION" and such action by the trial judge shall not
605 constitute a conviction. During the period that the minor's
606 driver's license is suspended, the trial judge shall suspend the
607 imposition of any fines or penalties that may be imposed under
608 this section and may place the minor on probation subject to such
609 conditions as the judge deems appropriate. If the minor violates
610 any of the conditions of probation, then the trial judge shall
611 return the driver's license to the minor and impose the fines,
612 penalties, or both, that he would have otherwise imposed, and such
613 action shall constitute a conviction.

614 (6) Any person who has been charged with a violation of
615 subsections (1) or (2) of this section may, not sooner than one
616 (1) year after the dismissal and discharge or completion of any
617 sentence and/or payment of any fine, apply to the court for an
618 order to expunge from all official records all recordation
619 relating to his arrest, trial, finding or plea of guilty, and



620 dismissal and discharge. If the court determines that such person
621 was dismissed and the proceedings against him discharged or that
622 such person had satisfactorily served his sentence and/or paid his
623 fine, it shall enter such order.

624 **SECTION 6.** This act shall take effect and be in force from
625 and after July 1, 2003.

