

By: Representative McCoy

To: Ways and Means

## HOUSE BILL NO. 1286

1 AN ACT TO AMEND SECTIONS 67-1-37, 67-3-31, 67-3-37 AND  
2 67-3-74, MISSISSIPPI CODE OF 1972, TO REMOVE THE JULY 1, 2003,  
3 REPEAL DATE ON THE PROVISIONS THAT AUTHORIZE THE ENFORCEMENT  
4 AGENTS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF THE STATE TAX  
5 COMMISSION TO ENFORCE CERTAIN PROVISIONS OF THE LIGHT WINE AND  
6 BEER LAWS; AND FOR RELATED PURPOSES.

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

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

10 \* \* \*

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

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

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



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

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

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

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

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

56 (g) Subject to the provisions of subsection (3) of  
57 Section 67-1-51, to issue rules and regulations governing the  
58 issuance of retail permits for premises located near or around  
59 schools, colleges, universities, churches and other public  
60 institutions, and specifying the distances therefrom within which  
61 no such permit shall be issued. The Alcoholic Beverage Control  
62 Division shall not allow the sale or consumption of alcoholic



63 beverages in or on the campus of any public school or college, and  
64 no alcoholic beverage shall be for sale or consumed at any public  
65 athletic event at any grammar or high school or any college.

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

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

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

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

90 (l) In the conduct of any hearing authorized to be held  
91 by the commission, to hear testimony and take proof material for  
92 its information in the discharge of its duties under this chapter;  
93 to issue subpoenas, which shall be effective in any part of this  
94 state, requiring the attendance of witnesses and the production of  
95 books and records; to administer or cause to be administered



oaths; and to examine or cause to be examined any witness under oath. Any court of record, or any judge thereof, may by order duly entered require the attendance of witnesses and the production of relevant books subpoenaed by the commission, and such court or judge may compel obedience to its or his order by proceedings for contempt.

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

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

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

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

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

(r) To enforce the provisions made unlawful by Sections 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

\* \* \*



129       **SECTION 2.** Section 67-3-31, Mississippi Code of 1972, is  
130 amended as follows:

131       \* \* \*

132       67-3-31. Proceedings for the revocation or suspension of any  
133 permit authorizing the sale of beer or wine at retail for a  
134 violation of any of the provisions of Section 67-3-53 may be  
135 brought in the circuit or county court of the county in which the  
136 licensed premises are located. Such proceedings shall be entitled  
137 in the name of the state and against the permittee and shall be  
138 instituted by filing a complaint with the clerk of the court. The  
139 complaint may be filed by the county prosecuting attorney of the  
140 county upon his own initiative or, then by the district attorney  
141 of the district in which the county is located, and it shall be  
142 mandatory upon the county prosecuting attorney, or district  
143 attorney, as the case may be, to file a complaint when requested  
144 to do so by a peace officer or any person as hereinafter provided.  
145 Any peace officer within his jurisdiction or any enforcement  
146 officer of the Alcoholic Beverage Control Division within the  
147 State Tax Commission who learns that a retail permittee within his  
148 jurisdiction has violated any of the provisions of such section  
149 shall file with the county prosecuting attorney of the county in  
150 which the licensed premises are located, or, then with the  
151 district attorney of the district in which such county is located,  
152 an affidavit specifying in detail the facts alleged to constitute  
153 such violation, and requesting that a complaint be filed against  
154 the permittee for the revocation or suspension of his permit. A  
155 like affidavit may be filed with the county prosecuting attorney,  
156 or district attorney, as the case may be, by any person who  
157 resides, and has for at least one (1) year prior thereto resided  
158 within the county in which the licensed premises are located  
159 requesting that a complaint be filed for the revocation or  
160 suspension of the permittee's permit. Promptly upon receiving any  
161 such affidavit the county prosecuting attorney, or district



attorney, shall prepare a proper complaint, which shall be signed and sworn to by the person or persons filing the affidavit with him, and the county prosecuting attorney or district attorney shall file the complaint with the clerk of the circuit or county court.

\* \* \*

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

\* \* \*

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

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

\* \* \*

**SECTION 4.** Section 67-3-74, Mississippi Code of 1972, is amended as follows:

67-3-74. (1) In addition to peace officers within their jurisdiction, all enforcement officers of the Alcoholic Beverage



195 Control Division of the State Tax Commission are authorized to  
196 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,  
197 67-3-53 and 67-3-70; provided, however, that the provisions  
198 prohibiting the sale of light wine or beer to persons under the  
199 age of twenty-one (21) years shall be enforced by the division as  
200 provided for in this section.

201 (2) (a) The Alcoholic Beverage Control Division shall  
202 investigate violations of the laws prohibiting the sale of light  
203 wine or beer to persons under the age of twenty-one (21) years  
204 upon receipt of a complaint or information from a person stating  
205 that they have knowledge of such violation.

206 (b) Upon receipt of such complaint or information, the  
207 Alcoholic Beverage Control Division shall notify the permit holder  
208 of the complaint by certified mail to the primary business office  
209 of such permit holder or by hand delivery of the complaint or  
210 information to the primary business office of such holder, except  
211 in cases where the complaint or information is received from any  
212 law enforcement officer.

213 (c) If an enforcement officer of the Alcoholic Beverage  
214 Control Division enters the business of the holder of the permit  
215 to investigate a complaint and discovers a violation, the agent  
216 shall notify the person that committed the violation and the  
217 holder of the permit:

218 (i) Within ten (10) days after such violation,  
219 Sundays and holidays excluded, if the business sells light wine or  
220 beer for on-premises consumption; and

221 (ii) Within seventy-two (72) hours after such  
222 violation, Sundays and holidays excluded, if the business does not  
223 sell light wine or beer for on-premises consumption.

224 \* \* \*

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

