

By: Representative McCoy

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
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 EXTEND UNTIL JULY 1, 2005,  
3 THE 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 **[Until July 1, 2005, this section will read as follows:]**

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



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

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

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

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

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

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

126 (r) To enforce the provisions made unlawful by Sections  
127 67-3-13, 67-3-15, 67-3-53 and 67-3-70.



128           **[From and after July 1, 2005, this section will read as**  
129 **follows:]**

130           67-1-37. The State Tax Commission, under its duties and  
131 powers with respect to the Alcoholic Beverage Control Division  
132 therein, shall have the following powers, functions and duties:

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

137           (b) To revoke, suspend or cancel, for violation of or  
138 noncompliance with the provisions of this chapter, or the law  
139 governing the production and sale of native wines, or any lawful  
140 rules and regulations of the commission issued hereunder, or for  
141 other sufficient cause, any permit issued by it under the  
142 provisions of this chapter; however, no such permit shall be  
143 revoked, suspended or cancelled except after a hearing of which  
144 the permit holder shall have been given reasonable notice and an  
145 opportunity to be heard. The board shall be authorized to suspend  
146 the permit of any permit holder for being out of compliance with  
147 an order for support, as defined in Section 93-11-153. The  
148 procedure for suspension of a permit for being out of compliance  
149 with an order for support, and the procedure for the reissuance or  
150 reinstatement of a permit suspended for that purpose, and the  
151 payment of any fees for the reissuance or reinstatement of a  
152 permit suspended for that purpose, shall be governed by Section  
153 93-11-157 or 93-11-163, as the case may be. If there is any  
154 conflict between any provision of Section 93-11-157 or 93-11-163  
155 and any provision of this chapter, the provisions of Section  
156 93-11-157 or 93-11-163, as the case may be, shall control.

157           (c) To prescribe forms of permits and applications for  
158 permits and of all reports which it deems necessary in  
159 administering this chapter.



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

164           (e) To issue rules regulating the advertising of  
165 alcoholic beverages in the state in any class of media and  
166 permitting advertising of the retail price of alcoholic beverages.

167           (f) To issue reasonable rules and regulations, not  
168 inconsistent with the federal laws or regulations, requiring  
169 informative labeling of all alcoholic beverages offered for sale  
170 within this state and providing for the standards of fill and  
171 shapes of retail containers of alcoholic beverages; however, such  
172 containers shall not contain less than fifty (50) milliliters by  
173 liquid measure.

174           (g) Subject to the provisions of subsection (3) of  
175 Section 67-1-51, to issue rules and regulations governing the  
176 issuance of retail permits for premises located near or around  
177 schools, colleges, universities, churches and other public  
178 institutions, and specifying the distances therefrom within which  
179 no such permit shall be issued. The Alcoholic Beverage Control  
180 Division shall not allow the sale or consumption of alcoholic  
181 beverages in or on the campus of any public school or college, and  
182 no alcoholic beverage shall be for sale or consumed at any public  
183 athletic event at any grammar or high school or any college.

184           (h) To adopt and promulgate, repeal and amend, such  
185 rules, regulations, standards, requirements and orders, not  
186 inconsistent with this chapter or any law of this state or of the  
187 United States, as it deems necessary to control the manufacture,  
188 importation, transportation, distribution and sale of alcoholic  
189 liquor, whether intended for beverage or nonbeverage use in a  
190 manner not inconsistent with the provisions of this chapter or any  
191 other statute, including the native wine laws.



192           (i) To call upon other administrative departments of  
193 the state, county and municipal governments, county and city  
194 police departments and upon prosecuting officers for such  
195 information and assistance as it may deem necessary in the  
196 performance of its duties.

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

203           (k) To inspect, or cause to be inspected, any premises  
204 where alcoholic liquors intended for sale are manufactured,  
205 stored, distributed or sold, and to examine or cause to be  
206 examined all books and records pertaining to the business  
207 conducted therein.

208           (l) In the conduct of any hearing authorized to be held  
209 by the commission, to hear testimony and take proof material for  
210 its information in the discharge of its duties under this chapter;  
211 to issue subpoenas, which shall be effective in any part of this  
212 state, requiring the attendance of witnesses and the production of  
213 books and records; to administer or cause to be administered  
214 oaths; and to examine or cause to be examined any witness under  
215 oath. Any court of record, or any judge thereof, may by order  
216 duly entered require the attendance of witnesses and the  
217 production of relevant books subpoenaed by the commission, and  
218 such court or judge may compel obedience to its or his order by  
219 proceedings for contempt.

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



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

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

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

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

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

246           **[Until July 1, 2005, this section will read as follows:]**

247           67-3-31. Proceedings for the revocation or suspension of any  
248 permit authorizing the sale of beer or wine at retail for a  
249 violation of any of the provisions of Section 67-3-53 may be  
250 brought in the circuit or county court of the county in which the  
251 licensed premises are located. Such proceedings shall be entitled  
252 in the name of the state and against the permittee and shall be  
253 instituted by filing a complaint with the clerk of the court. The  
254 complaint may be filed by the county prosecuting attorney of the  
255 county upon his own initiative or, then by the district attorney  
256 of the district in which the county is located, and it shall be  
257 mandatory upon the county prosecuting attorney, or district





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

282 **[From and after July 1, 2005, this section will read as**  
283 **follows:]**

284 67-3-31. Proceedings for the revocation or suspension of any  
285 permit authorizing the sale of beer or wine at retail for a  
286 violation of any of the provisions of Section 67-3-53 may be  
287 brought in the circuit or county court of the county in which the  
288 licensed premises are located. Such proceedings shall be entitled  
289 in the name of the state and against the permittee and shall be  
290 instituted by filing a complaint with the clerk of the court. The



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

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

319 **[Until July 1, 2005, this section will read as follows:]**

320 67-3-37. It shall be the duty of the county prosecuting  
321 attorney or the district attorney, as the case may be, to file  
322 complaints as provided in Section 67-3-31 and to prosecute  
323 diligently and without delay all complaints filed by him.



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

339           **[From and after July 1, 2005, this section will read as**  
340 **follows:]**

341           67-3-37. It shall be the duty of the county prosecuting  
342 attorney or the district attorney, as the case may be, to file  
343 complaints as provided in Section 67-3-31 and to prosecute  
344 diligently and without delay all complaints filed by him.

345           It shall be the duty of all peace officers to enforce, within  
346 their jurisdiction, the provisions of Section 67-3-53 and they  
347 shall frequently visit all licensed premises within their  
348 jurisdiction to determine whether such permittees are complying  
349 with the laws. They shall promptly investigate all complaints  
350 made to them by any citizen relative to any alleged violations of  
351 such section within their jurisdiction. When any peace officer  
352 has knowledge of a violation of such section committed by a  
353 permittee within his jurisdiction, it shall be his duty forthwith  
354 to file an affidavit with the county prosecuting attorney or  
355 district attorney requesting that a complaint be filed for the  
356 revocation or suspension of the permit of the permittee.



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

359           67-3-74. (1) In addition to peace officers within their  
360 jurisdiction, all enforcement officers of the Alcoholic Beverage  
361 Control Division of the State Tax Commission are authorized to  
362 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,  
363 67-3-53 and 67-3-70; provided, however, that the provisions  
364 prohibiting the sale of light wine or beer to persons under the  
365 age of twenty-one (21) years shall be enforced by the division as  
366 provided for in this section.

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

372           (b) Upon receipt of such complaint or information, the  
373 Alcoholic Beverage Control Division shall notify the permit holder  
374 of the complaint by certified mail to the primary business office  
375 of such permit holder or by hand delivery of the complaint or  
376 information to the primary business office of such holder, except  
377 in cases where the complaint or information is received from any  
378 law enforcement officer.

379           (c) If an enforcement officer of the Alcoholic Beverage  
380 Control Division enters the business of the holder of the permit  
381 to investigate a complaint and discovers a violation, the agent  
382 shall notify the person that committed the violation and the  
383 holder of the permit:

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

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



390 (3) The provisions of this section shall be repealed on July  
391 1, 2005.

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

