AN ACT TO AMEND SECTIONS 67-1-37, 67-3-31, 67-3-37 AND
67-3-74, MISSISSIPPI CODE OF 1972, TO EXTEND UNTIL JULY 1, 2005,
THE REPEAL DATE ON THE PROVISIONS THAT AUTHORIZE THE ENFORCEMENT
AGENTS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF THE STATE TAX
COMMISSION TO ENFORCE CERTAIN PROVISIONS OF THE LIGHT WINE AND
BEER LAWS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

procedure for suspension of a permit for being out of compliance
with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

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

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

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

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

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

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

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

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

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

(l) In the conduct of any hearing authorized to be held by the commission, to hear testimony and take proof material for its information in the discharge of its duties under this chapter; to issue subpoenas, which shall be effective in any part of this state, requiring the attendance of witnesses and the production of 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.
[From and after July 1, 2005, this section will read as follows:]

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

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

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

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.
(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcoholic beverages.

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

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

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

(h) To adopt and promulgate, repeal and amend, such rules, regulations, standards, requirements and orders, not inconsistent with this chapter or any law of this state or of the United States, as it deems necessary to control the manufacture, importation, transportation, distribution and sale of alcoholic liquor, whether intended for beverage or nonbeverage use in a manner not inconsistent with the provisions of this chapter or any other statute, including the native wine laws.
(i) To call upon other administrative departments of the state, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it may deem necessary in the performance of its duties.

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

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

(l) In the conduct of any hearing authorized to be held by the commission, to hear testimony and take proof material for its information in the discharge of its duties under this chapter; to issue subpoenas, which shall be effective in any part of this state, requiring the attendance of witnesses and the production of 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.

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

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

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

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

67-3-31. Proceedings for the revocation or suspension of any
permit authorizing the sale of beer or wine at retail for a
violation of any of the provisions of Section 67-3-53 may be
brought in the circuit or county court of the county in which the
licensed premises are located. Such proceedings shall be entitled
in the name of the state and against the permittee and shall be
instituted by filing a complaint with the clerk of the court. The
complaint may be filed by the county prosecuting attorney of the county upon his own initiative or, then by the district attorney of the district in which the county is located, and it shall be mandatory upon the county prosecuting attorney, or district attorney, as the case may be, to file a complaint when requested to do so by a peace officer or any person as hereinafter provided.

Any peace officer who learns that a retail permittee within his jurisdiction has violated any of the provisions of such section shall file with the county prosecuting attorney of the county in which the licensed premises are located, or, then with the district attorney of the district in which such county is located, an affidavit specifying in detail the facts alleged to constitute such violation, and requesting that a complaint be filed against the permittee for the revocation or suspension of his permit. A like affidavit may be filed with the county prosecuting attorney, or district attorney, as the case may be, by any person who resides, and has for at least one (1) year prior thereto resided within the county in which the licensed premises are located, requesting that a complaint be filed for the revocation or suspension of the permittee's permit. Promptly upon receiving any 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:

[Until July 1, 2005, this section will read 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.

[From and after July 1, 2005, this section will read 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 to enforce, within their jurisdiction, 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 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 Control Division of the State Tax Commission are authorized to enforce the provisions made unlawful by Sections 67-3-13, 67-3-15, 67-3-53 and 67-3-70; provided, however, that the provisions prohibiting the sale of light wine or beer to persons under the age of twenty-one (21) years shall be enforced by the division as provided for in this section.

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

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

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

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

   (ii) Within seventy-two (72) hours after such violation, Sundays and holidays excluded, if the business does not sell light wine or beer for on-premises consumption.
(3) The provisions of this section shall be repealed on July 1, 2005.

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