

By: Representative Zuber

To: Ways and Means

HOUSE BILL NO. 920

1 AN ACT TO AMEND SECTION 67-3-53, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT PERMITEES AND EMPLOYEES SELLING LIGHT WINE AND BEER FROM
3 ACCEPTING UNAUTHORIZED IDENTIFICATION; TO AMEND SECTION 67-3-54,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE A POSSESSION EXCEPTION FOR
5 MINORS WORKING WITH LAW ENFORCEMENT; TO AMEND SECTION 67-3-69,
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO BRING FORWARD SECTION
7 67-3-70, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND
8 FOR RELATED PURPOSES.

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

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

12 67-3-53. In addition to any act declared to be unlawful by
13 this chapter, or by Sections 27-71-301 through 27-71-347, and
14 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be
15 unlawful for the holder of a permit authorizing the sale of beer
16 or light wine at retail or for the employee of the holder of such
17 a permit:

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

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

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

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

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

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

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

52 (h) To accept a form of identification which states
53 that a person is twenty-one (21) years of age or older that is not
54 issued by an official governmental entity.

55 **SECTION 2.** Section 67-3-54, Mississippi Code of 1972, is
56 amended as follows:

57 67-3-54. (1) A person who is at least eighteen (18) years
58 of age but under the age of twenty-one (21) years may possess and
59 consume light wine or beer with the consent of his parent or legal
60 guardian in the presence of his parent or legal guardian, and it
61 shall not be unlawful for the parent, legal guardian or spouse of
62 such person to furnish light wine or beer to such person who is at
63 least eighteen (18) years of age.

64 (2) A person who is at least eighteen (18) years of age and
65 who is serving in the armed services of the United States may
66 lawfully possess and consume light wine or beer on military
67 property where the consumption of light wine or beer is allowed.

68 (3) A person who is under twenty-one (21) years of age shall
69 not be deemed to unlawfully possess or furnish light wine or beer,
70 if in the scope of his employment such person:

71 (a) Clears or buses tables that have glasses or other
72 containers that contain or did contain light wine or beer;

73 (b) Waits on tables by taking orders for light wine or
74 beer; * * *

75 (c) Stocks, bags or otherwise handles purchases of
76 light wine or beer at a store; or

77 (d) Works with law enforcement to enforce law
78 regulating alcohol, light wine and beer.

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

81 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
82 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
83 this chapter or of any rule or regulation of the commissioner,
84 shall be a misdemeanor and, where the punishment therefor is not
85 elsewhere prescribed herein, shall be punished by a fine of not
86 more than Five Hundred Dollars (\$500.00) or imprisonment for not
87 more than six (6) months, or both, in the discretion of the court.
88 If any person so convicted shall be the holder of any permit or
89 license issued by the commissioner under authority of this
90 chapter, such permit or license shall from and after the date of
91 such conviction be void and the holder thereof shall not
92 thereafter, for a period of one (1) year from the date of such
93 conviction, be entitled to any permit or license for any purpose
94 authorized by this chapter. Upon conviction of the holder of any
95 permit or license, the appropriate law enforcement officer shall
96 seize the permit or license and transmit it to the commissioner.

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

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

114 (3) If the holder of a permit, or the employee of the holder
115 of a permit, shall be convicted of selling any beer or wine to any
116 person under the age of twenty-one (21) years from the licensed
117 premises in violation of Section 67-3-53(b) or accepting an
118 unauthorized form of identification in violation of Section
119 67-3-53(h), then, in addition to any other penalty provided for by
120 law, the holder of the permit, or employee of the holder of a
121 permit, may be punished as follows:

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

127 (b) For a second offense occurring on the licensed
128 premises within twelve (12) months of the first offense, by a fine
129 of not less than Two Hundred Dollars (\$200.00) nor more than One

130 Thousand Five Hundred Dollars (\$1,500.00) and/or the sale of beer
131 or wine on the premises from which the sale occurred may be
132 prohibited for six (6) months.

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

139 (4) A person who sells any beer or wine to a person under
140 the age of twenty-one (21) years shall not be guilty of a
141 violation of Section 67-3-53(b) if the person under the age of
142 twenty-one (21) years represents himself to be twenty-one (21)
143 years of age or older by displaying an apparently valid
144 Mississippi driver's license containing a physical description
145 consistent with his appearance or by displaying some other
146 apparently valid identification document containing a picture and
147 physical description consistent with his appearance for the
148 purpose of inducing the person to sell beer or wine to him.

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

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

156 (b) For a second offense occurring within twelve (12)
157 months of the first offense, the holder of a permit to operate a
158 brewpub may be fined an amount not to exceed One Thousand Dollars
159 (\$1,000.00).

160 (c) For a third or subsequent offense occurring within
161 twelve (12) months of the first offense, the holder of a permit to
162 operate a brewpub may be fined an amount not to exceed Five

163 Thousand Dollars (\$5,000.00) and the permit to operate a brewpub
164 shall be suspended for thirty (30) days.

165 **SECTION 4.** Section 67-3-70, Mississippi Code of 1972, is
166 brought forward as follows:

167 67-3-70. (1) Except as otherwise provided by Section
168 67-3-54, any person under the age of twenty-one (21) years who
169 purchases or possesses any light wine or beer shall be guilty of a
170 misdemeanor, and upon conviction shall be punished by a fine of
171 not less than Two Hundred Dollars (\$200.00) nor more than Five
172 Hundred Dollars (\$500.00) and a sentence to not more than thirty
173 (30) days community service.

174 (2) Any person under the age of twenty-one (21) years who
175 falsely states he is twenty-one (21) years of age or older or
176 presents any document that indicates he is twenty-one (21) years
177 of age or older for the purpose of purchasing or possessing any
178 light wine or beer shall be guilty of a misdemeanor, and upon
179 conviction shall be punished by a fine of not less than Two
180 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
181 (\$500.00) and a sentence to not more than thirty (30) days
182 community service.

183 (3) Except as otherwise provided by Section 67-3-54, any
184 person who knowingly purchases light wine or beer for, or gives or
185 makes available light wine or beer to a person under the age of
186 twenty-one (21) years, shall be guilty of a misdemeanor and upon
187 conviction shall be punished by a fine of not less than Two
188 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
189 (\$500.00) and a sentence to not more than thirty (30) days
190 community service.

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

195 (5) If a person under the age of twenty-one (21) years is
196 convicted or enters a plea of guilty of violating subsection (1)
197 or subsection (2) of this section, the trial judge, in lieu of the
198 penalties otherwise provided under this section, shall suspend the
199 minor's driver's license by taking and keeping it in the custody
200 of the court for a period of time not to exceed ninety (90) days.
201 The judge so ordering the suspension shall enter upon his docket
202 "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF
203 CONVICTION" and such action by the trial judge shall not
204 constitute a conviction. During the period that the minor's
205 driver's license is suspended, the trial judge shall suspend the
206 imposition of any fines or penalties that may be imposed under
207 this section and may place the minor on probation subject to such
208 conditions as the judge deems appropriate. If the minor violates
209 any of the conditions of probation, then the trial judge shall
210 return the driver's license to the minor and impose the fines,
211 penalties, or both, that he would have otherwise imposed, and such
212 action shall constitute a conviction.

213 (6) Any person who has been charged with a violation of
214 subsections (1) or (2) of this section may, not sooner than one
215 (1) year after the dismissal and discharge or completion of any
216 sentence and/or payment of any fine, apply to the court for an
217 order to expunge from all official records all recordation
218 relating to his arrest, trial, finding or plea of guilty, and
219 dismissal and discharge. If the court determines that such person
220 was dismissed and the proceedings against him discharged or that
221 such person had satisfactorily served his sentence and/or paid his
222 fine, it shall enter such order.

223 **SECTION 5.** This act shall take effect and be in force from
224 and after July 1, 2004.