

By: Representative Reeves

To: Judiciary A

HOUSE BILL NO. 323

1 AN ACT TO AMEND SECTIONS 67-1-81 AND 67-3-70, MISSISSIPPI
2 CODE OF 1972, TO PROHIBIT THE CONSUMPTION OF ALCOHOLIC BEVERAGES
3 BY MINORS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 67-1-81, Mississippi Code of 1972, is
6 amended as follows:

7 67-1-81. (1) Any permittee or other person who shall sell,
8 furnish, dispose of, give, or cause to be sold, furnished,
9 disposed of, or given, any alcoholic beverage to any person under
10 the age of twenty-one (21) years shall be guilty of a misdemeanor
11 and shall be punished by a fine of not less than Five Hundred
12 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)
13 for a first offense. For a second or subsequent offense, such
14 permittee or other person shall be punished by a fine of not less
15 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand
16 Dollars (\$2,000.00), or by imprisonment for not more than one (1)
17 year, or by both such fine and imprisonment in the discretion of
18 the court. Upon conviction of a second offense under the
19 provisions of this section the permit of any permittee so
20 convicted shall be automatically and permanently revoked.

21 (2) Any person under the age of twenty-one (21) years who
22 purchases, receives, consumes or has in his or her possession in
23 any public place, any alcoholic beverages, shall be guilty of a
24 misdemeanor and shall be punished by a fine of not less than Two
25 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
26 (\$500.00). Provided, that clearing or busing tables that have
27 glasses or other containers that contain or did contain alcoholic

28 beverages, or stocking, bagging or otherwise handling purchases of
29 alcoholic beverages shall not be deemed possession of alcoholic
30 beverages for the purposes of this section. Provided further,
31 that a person who is at least eighteen (18) years of age but under
32 the age of twenty-one (21) years who waits on tables by taking
33 orders for or delivering orders of alcoholic beverages shall not
34 be deemed to unlawfully possess or furnish alcoholic beverages if
35 in the scope of his employment by the holder of an on-premises
36 retailer's permit. This exception shall not authorize a person
37 under the age of twenty-one (21) to tend bar or act in the
38 capacity of bartender. Any person under the age of twenty-one
39 (21) who knowingly makes a false statement to the effect that he
40 or she is twenty-one (21) years old or older to any person engaged
41 in the sale of alcoholic beverages for the purpose of obtaining
42 the same shall be guilty of a misdemeanor and shall be punished by
43 a fine of not less than Two Hundred Dollars (\$200.00) nor more
44 than Five Hundred Dollars (\$500.00), and a sentence to not more
45 than thirty (30) days' community service.

46 (3) The term "community service" as used in this section
47 shall mean work, projects or services for the benefit of the
48 community assigned, supervised and recorded by appropriate public
49 officials.

50 (4) If a person under the age of twenty-one (21) years is
51 convicted or enters a plea of guilty of purchasing, receiving or
52 having in his or her possession in any public place any alcoholic
53 beverages in violation of subsection (2) of this section, the
54 trial judge, in lieu of the penalties otherwise provided under
55 subsection (2) of this section, shall suspend the minor's driver's
56 license by taking and keeping it in the custody of the court for a
57 period of time not to exceed ninety (90) days. The judge so
58 ordering the suspension shall enter upon his docket "DEFENDANT'S
59 DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF CONVICTION"
60 and such action by the trial judge shall not constitute a

61 conviction. During the period that the minor's driver's license
62 is suspended, the trial judge shall suspend the imposition of any
63 fines or penalties that may be imposed under subsection (2) of
64 this section and may place the minor on probation subject to such
65 conditions as the judge deems appropriate. If the minor violates
66 any of the conditions of probation, then the trial judge shall
67 return the driver's license to the minor and impose the fines,
68 penalties or both, that he would have otherwise imposed, and such
69 action shall constitute a conviction.

70 **SECTION 2.** Section 67-3-70, Mississippi Code of 1972, is
71 amended as follows:

72 67-3-70. (1) Except as otherwise provided by Section
73 67-3-54, any person under the age of twenty-one (21) years who
74 purchases, consumes or possesses any light wine or beer shall be
75 guilty of a misdemeanor, and upon conviction shall be punished by
76 a fine of not less than Two Hundred Dollars (\$200.00) nor more
77 than Five Hundred Dollars (\$500.00) and a sentence to not more
78 than thirty (30) days community service.

79 (2) Any person under the age of twenty-one (21) years who
80 falsely states he is twenty-one (21) years of age or older or
81 presents any document that indicates he is twenty-one (21) years
82 of age or older for the purpose of purchasing or possessing any
83 light wine or beer shall be guilty of a misdemeanor, and upon
84 conviction shall be punished by a fine of not less than Two
85 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
86 (\$500.00) and a sentence to not more than thirty (30) days
87 community service.

88 (3) Except as otherwise provided by Section 67-3-54, any
89 person who knowingly purchases light wine or beer for, or gives or
90 makes available light wine or beer to a person under the age of
91 twenty-one (21) years, shall be guilty of a misdemeanor and upon
92 conviction shall be punished by a fine of not less than Two
93 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars

94 (\$500.00) and a sentence to not more than thirty (30) days
95 community service.

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

100 (5) If a person under the age of twenty-one (21) years is
101 convicted or enters a plea of guilty of violating subsection (1)
102 or subsection (2) of this section, the trial judge, in lieu of the
103 penalties otherwise provided under this section, shall suspend the
104 minor's driver's license by taking and keeping it in the custody
105 of the court for a period of time not to exceed ninety (90) days.
106 The judge so ordering the suspension shall enter upon his docket
107 "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF
108 CONVICTION" and such action by the trial judge shall not
109 constitute a conviction. During the period that the minor's
110 driver's license is suspended, the trial judge shall suspend the
111 imposition of any fines or penalties that may be imposed under
112 this section and may place the minor on probation subject to such
113 conditions as the judge deems appropriate. If the minor violates
114 any of the conditions of probation, then the trial judge shall
115 return the driver's license to the minor and impose the fines,
116 penalties, or both, that he would have otherwise imposed, and such
117 action shall constitute a conviction.

118 (6) Any person who has been charged with a violation of
119 subsections (1) or (2) of this section may, not sooner than one
120 (1) year after the dismissal and discharge or completion of any
121 sentence and/or payment of any fine, apply to the court for an
122 order to expunge from all official records all recordation
123 relating to his arrest, trial, finding or plea of guilty, and
124 dismissal and discharge. If the court determines that such person
125 was dismissed and the proceedings against him discharged or that

126 such person had satisfactorily served his sentence and/or paid his
127 fine, it shall enter such order.

128 **SECTION 3.** This act shall take effect and be in force from
129 and after July 1, 2005.