

By: Senator(s) Robertson

To: Finance

## SENATE BILL NO. 2561

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A RESPONSIBLE  
2 ALCOHOL VENDOR PROGRAM DESIGNED TO ELIMINATE THE SALE OF ALCOHOLIC  
3 BEVERAGES, BEER AND LIGHT WINE TO UNDERAGE PERSONS AND TO  
4 ENCOURAGE THE RESPONSIBLE SALE OF ALCOHOLIC BEVERAGES, BEER AND  
5 LIGHT WINE; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL OVERSEE  
6 THE PROGRAM; TO PROVIDE THAT THE COMMISSION SHALL APPROVE ALL  
7 SERVER TRAINING COURSES AND ISSUE PERMITS TO APPROVED PROVIDERS;  
8 TO PROVIDE THAT APPROVED PROVIDERS SHALL ISSUE SERVER CERTIFICATES  
9 TO SERVERS UPON SUCCESSFUL COMPLETION OF A SERVER TRAINING COURSE;  
10 TO PROVIDE THAT IF A VENDOR'S EMPLOYEE SELLS ALCOHOLIC BEVERAGES,  
11 BEER OR LIGHT WINE TO UNDERAGE OR VISIBLY INTOXICATED PERSONS THE  
12 VENDOR'S PERMIT SHALL NOT BE SUSPENDED OR REVOKED BY THE  
13 COMMISSION FOR THE FIRST OFFENSE COMMITTED ON THE PERMITTED  
14 PREMISES WITHIN A SIX-MONTH PERIOD IF ALL SERVERS OF THE VENDOR  
15 POSSESS A VALID SERVER'S CERTIFICATION AT THE TIME OF THE  
16 VIOLATION OR ALL SERVERS HAVE APPLIED FOR SERVER'S CERTIFICATION  
17 WITHIN 30 DAYS AFTER COMMENCING EMPLOYMENT, AND THE VENDOR WAS  
18 WITHOUT KNOWLEDGE OF THE VIOLATION OR DID NOT PARTICIPATE IN OR  
19 COMMIT THE VIOLATION; TO PROVIDE THAT IF THERE ARE SUBSEQUENT  
20 VIOLATIONS WITHIN THE SIX-MONTH PERIOD, SERVER TRAINING MAY, BUT  
21 IS NOT REQUIRED TO, BE CONSIDERED AS A MITIGATING FACTOR; TO  
22 PROVIDE FOR FEES FOR APPROVED PROVIDER PERMITS; TO AMEND SECTIONS  
23 67-1-37, 67-1-71, 67-1-81, 67-3-29 AND 67-3-69, MISSISSIPPI CODE  
24 OF 1972, IN CONFORMITY THERETO; TO AMEND SECTIONS 67-1-37,  
25 67-3-31, 67-3-37 AND 67-3-74, MISSISSIPPI CODE OF 1972, TO EXTEND  
26 UNTIL JULY 1, 2006, THE REPEAL DATE ON THE PROVISIONS THAT  
27 AUTHORIZE THE ENFORCEMENT AGENTS OF THE ALCOHOLIC BEVERAGE CONTROL  
28 DIVISION OF THE STATE TAX COMMISSION TO ENFORCE CERTAIN PROVISIONS  
29 OF THE LIGHT WINE AND BEER LAWS; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Sections 1 through 9 of this act shall be known  
32 and may be cited as the "Responsible Alcohol Vendor Law" of the  
33 State of Mississippi.

34 **SECTION 2.** The purpose of this act is to eliminate the sale  
35 of alcoholic beverages, beer and light wine to, and the  
36 consumption of alcoholic beverages, beer, and light wine by,  
37 underage persons; to reduce intoxication and to reduce accidents,  
38 injuries, and death in the state which are related to  
39 intoxication; and to encourage the responsible sale of alcoholic  
40 beverages, beer and light wine by vendors throughout the state and

41 provide for the mitigation of administrative penalties against  
42 vendors who comply with responsible practices in accordance with  
43 this act.

44 **SECTION 3.** As used in Sections 1 through 9 of this act:

45 (a) "Commission" means the State Tax Commission.

46 (b) "Person" means any individual, partnership,  
47 corporation, association or other legal entity.

48 (c) "Vendor" means any person holding a permit to sell  
49 alcoholic beverages, beer or light wine, for on-premises  
50 consumption or off-premises consumption.

51 (d) "Server" means any employee of a vendor who is  
52 authorized to sell, serve, or mix alcoholic beverages, beer or  
53 light wine in the normal course of his or her employment or deals  
54 with the customers who purchase or consume alcoholic beverages,  
55 beer or light wine.

56 (e) "Server certification" means the certificate issued  
57 to a server upon completion of an approved server training course.

58 (f) "Approved provider" means a person approved by the  
59 commission to provide server training courses.

60 (g) "Trainer" means an individual employed or  
61 authorized by an approved training provider to conduct an alcohol  
62 server education course wherein the successful completion of the  
63 course by the student will result in the issuance of a server  
64 certification.

65 **SECTION 4.** (1) The commission shall oversee the Responsible  
66 Alcohol Vendor Program. The program shall be designed to educate  
67 vendors and their employees and customers about selling, serving  
68 and consuming alcoholic beverages, beer and light wine in a  
69 responsible manner. The commission shall:

70 (a) Approve server training courses for vendors and  
71 servers; and

72 (b) Issue and renew approved provider permits.

73 Approved provider permits shall be considered a privilege  
74 license and if not expired, suspended or revoked, remain valid  
75 within the State of Mississippi.

76 (2) The commission shall approve all server training courses  
77 prior to implementation and issue permits to approved providers.  
78 The permits for approved providers shall be valid for two (2)  
79 years. The commission may promulgate rules and regulations  
80 setting forth additional requirements for providers and/or  
81 individual trainers.

82 (3) Approved providers shall retain records of all persons  
83 trained for a period of three (3) years after the date of such  
84 training and shall make this information available to the  
85 commission upon request or as required by regulation.

86 **SECTION 5.** Approved providers shall issue server  
87 certificates to servers upon successful completion of a server  
88 training course offered by an approved provider. Server  
89 certificates shall be valid for a period of two (2) years from the  
90 date of completion of the training course and shall be issued and  
91 renewed by approved providers in accordance with the rules and  
92 regulations promulgated by the commission.

93 **SECTION 6.** The commission may suspend or revoke and  
94 disapprove provider's permit or impose a fine for noncompliance  
95 with Sections 1 through 9 of this act or for any violation of  
96 federal, state or local laws or regulations. The procedure for  
97 the suspension, revocation or denial of a permit, or for the  
98 imposition of fines, shall be the same as are otherwise set forth  
99 in Chapter 1, Title 67, Mississippi Code of 1972, for suspension  
100 or revocation of alcoholic beverage permits.

101 **SECTION 7.** (1) If a vendor's employee sells alcoholic  
102 beverages, beer or light wine to an underage or visibly  
103 intoxicated person, the vendor's permit shall not be suspended or  
104 revoked by the commission for the first offense committed on the  
105 permitted premises within a six-month period if:

106 (a) All servers of the vendor possessed a valid  
107 server's certification at the time of the violation or all servers  
108 had applied for server's certification within thirty (30) days  
109 after commencing employment; and

110 (b) The vendor was without knowledge of the violation  
111 or did not participate in or commit such violation.

112 (2) If there are subsequent violations at the permitted  
113 premises within a six-month period, the commission shall consider  
114 server training in mitigation of a vendor's administrative  
115 penalties or fines for the unlawful sale or service of an  
116 alcoholic beverage, beer or light wine.

117 (3) The vendor shall have the burden of proof in showing  
118 that his or her employees were trained or had applied for training  
119 within thirty (30) days of commencing employment.

120 **SECTION 8.** The commission may promulgate rules and  
121 regulations to effectuate the program in accordance with the  
122 Mississippi Administrative Procedures Law, including, but not  
123 limited to, rules and regulations related to the development,  
124 establishment and maintenance of the program. The commission  
125 shall effect the formation of an industry advisory council to  
126 provide comment on the proposed initial rules and regulations.

127 **SECTION 9.** The commission may promulgate rules and  
128 regulations regarding fees for approved provider permits to be  
129 issued under Sections 1 through 9 of this act. The commission may  
130 assess a permit fee not to exceed Five Hundred Dollars (\$500.00)  
131 upon any person, organization or entity seeking classification as  
132 an approved provider. This permit shall remain valid for a period  
133 of two (2) years, unless suspended or revoked by the commission.  
134 The commission may renew an approved provider permit upon request  
135 and assess a permit renewal fee not to exceed One Hundred Dollars  
136 (\$100.00).

137 **SECTION 10.** Section 67-1-37, Mississippi Code of 1972, is  
138 amended as follows:

139           **[Until July 1, 2006, this section will read as follows:]**

140           67-1-37. The State Tax Commission, under its duties and  
141 powers with respect to the Alcoholic Beverage Control Division  
142 therein, shall have the following powers, functions and duties:

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

147           (b) To revoke, suspend or cancel, for violation of or  
148 noncompliance with the provisions of this chapter, or the law  
149 governing the production and sale of native wines, or any lawful  
150 rules and regulations of the commission issued hereunder, or for  
151 other sufficient cause, any permit issued by it under the  
152 provisions of this chapter; however, no such permit shall be  
153 revoked, suspended or cancelled except after a hearing of which  
154 the permit holder shall have been given reasonable notice and an  
155 opportunity to be heard. The board shall be authorized to suspend  
156 the permit of any permit holder for being out of compliance with  
157 an order for support, as defined in Section 93-11-153. The  
158 procedure for suspension of a permit for being out of compliance  
159 with an order for support, and the procedure for the reissuance or  
160 reinstatement of a permit suspended for that purpose, and the  
161 payment of any fees for the reissuance or reinstatement of a  
162 permit suspended for that purpose, shall be governed by Section  
163 93-11-157 or Section 93-11-163, as the case may be. If there is  
164 any conflict between any provision of Section 93-11-157 or Section  
165 93-11-163 and any provision of this chapter, the provisions of  
166 Section 93-11-157 or Section 93-11-163, as the case may be, shall  
167 control.

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

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

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

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

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

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

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

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

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

219           (l) In the conduct of any hearing authorized to be held  
220 by the commission, to hear testimony and take proof material for  
221 its information in the discharge of its duties under this chapter;  
222 to issue subpoenas, which shall be effective in any part of this  
223 state, requiring the attendance of witnesses and the production of  
224 books and records; to administer or cause to be administered  
225 oaths; and to examine or cause to be examined any witness under  
226 oath. Any court of record, or any judge thereof, may by order  
227 duly entered require the attendance of witnesses and the  
228 production of relevant books subpoenaed by the commission, and  
229 such court or judge may compel obedience to its or his order by  
230 proceedings for contempt.

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

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

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

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

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

255 (r) To enforce the provisions made unlawful by Sections  
256 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

257 (s) To adopt and promulgate rules and regulations for  
258 the Responsible Alcohol Vendor Law.

259 **[From and after July 1, 2006, this section will read as**  
260 **follows:]**

261 67-1-37. The State Tax Commission, under its duties and  
262 powers with respect to the Alcoholic Beverage Control Division  
263 therein, shall have the following powers, functions and duties:

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

268           (b) To revoke, suspend or cancel, for violation of or  
269 noncompliance with the provisions of this chapter, or the law  
270 governing the production and sale of native wines, or any lawful  
271 rules and regulations of the commission issued hereunder, or for  
272 other sufficient cause, any permit issued by it under the  
273 provisions of this chapter; however, no such permit shall be  
274 revoked, suspended or cancelled except after a hearing of which  
275 the permit holder shall have been given reasonable notice and an  
276 opportunity to be heard. The board shall be authorized to suspend  
277 the permit of any permit holder for being out of compliance with  
278 an order for support, as defined in Section 93-11-153. The  
279 procedure for suspension of a permit for being out of compliance  
280 with an order for support, and the procedure for the reissuance or  
281 reinstatement of a permit suspended for that purpose, and the  
282 payment of any fees for the reissuance or reinstatement of a  
283 permit suspended for that purpose, shall be governed by Section  
284 93-11-157 or 93-11-163, as the case may be. If there is any  
285 conflict between any provision of Section 93-11-157 or 93-11-163  
286 and any provision of this chapter, the provisions of Section  
287 93-11-157 or 93-11-163, as the case may be, shall control.

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

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

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

298           (f) To issue reasonable rules and regulations, not  
299 inconsistent with the federal laws or regulations, requiring  
300 informative labeling of all alcoholic beverages offered for sale

301 within this state and providing for the standards of fill and  
302 shapes of retail containers of alcoholic beverages; however, such  
303 containers shall not contain less than fifty (50) milliliters by  
304 liquid measure.

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

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

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

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

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

339           (l) In the conduct of any hearing authorized to be held  
340 by the commission, to hear testimony and take proof material for  
341 its information in the discharge of its duties under this chapter;  
342 to issue subpoenas, which shall be effective in any part of this  
343 state, requiring the attendance of witnesses and the production of  
344 books and records; to administer or cause to be administered  
345 oaths; and to examine or cause to be examined any witness under  
346 oath. Any court of record, or any judge thereof, may by order  
347 duly entered require the attendance of witnesses and the  
348 production of relevant books subpoenaed by the commission, and  
349 such court or judge may compel obedience to its or his order by  
350 proceedings for contempt.

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

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

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

366 or suspension, and upon request given a hearing in his own  
367 defense.

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

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

375 (r) To adopt and promulgate rules and regulations for  
376 the Responsible Alcohol Vendor Law.

377 **SECTION 11.** Section 67-1-71, Mississippi Code of 1972, is  
378 amended as follows:

379 67-1-71. The commission may revoke or suspend any permit  
380 issued by it for a violation by the permittee of any of the  
381 provisions of this chapter or of the regulations promulgated under  
382 it by the commission.

383 Permits must be revoked or suspended for the following  
384 causes:

385 (a) Conviction of the permittee for the violation of  
386 any of the provisions of this chapter;

387 (b) Willful failure or refusal by any permittee to  
388 comply with any of the provisions of this chapter or of any rule  
389 or regulation adopted pursuant thereto;

390 (c) The making of any materially false statement in any  
391 application for a permit;

392 (d) Conviction of one or more of the clerks, agents or  
393 employees of the permittee, of any violation of this chapter upon  
394 the premises covered by such permit within a period of time as  
395 designated by the rules or regulations of the commission;

396 (e) The possession on the premises of any retail  
397 permittee of any alcoholic beverages upon which the tax has not  
398 been paid;

399 (f) The willful failure of any permittee to keep the  
400 records or make the reports required by this chapter, or to allow  
401 an inspection of such records by any duly authorized person;

402 (g) The suspension or revocation of a permit issued to  
403 the permittee by the federal government, or conviction of  
404 violating any federal law relating to alcoholic beverages;

405 (h) The failure to furnish any bond required by this  
406 chapter within fifteen (15) days after notice from the commission;  
407 and

408 (i) The conducting of any form of illegal gambling on  
409 the premises of any permittee or on any premises connected  
410 therewith or the presence on any such premises of any gambling  
411 device with the knowledge of the permittee.

412 The provisions of paragraph (i) of this section shall not  
413 apply to gambling or the presence of any gambling devices, with  
414 knowledge of the permittee, on board a cruise vessel in the waters  
415 within the State of Mississippi, which lie adjacent to the State  
416 of Mississippi south of the three (3) most southern counties in  
417 the State of Mississippi, or on any vessel as defined in Section  
418 27-109-1 whenever such vessel is on the Mississippi River or  
419 navigable waters within any county bordering on the Mississippi  
420 River. The commission may, in its discretion, issue on-premises  
421 retailer's permits to a common carrier of the nature described in  
422 this paragraph.

423 In exercising its authority under this section, the  
424 commission shall recognize the defense created for permittees  
425 certified under the Responsible Alcohol Vendor Law.

426 No permit shall be revoked except after a hearing by the  
427 commission with reasonable notice to the permittee and an  
428 opportunity for him to appear and defend.

429 In addition to the causes specified in this section and other  
430 provisions of this chapter, the commission shall be authorized to  
431 suspend the permit of any permit holder for being out of

432 compliance with an order for support, as defined in Section  
433 93-11-153. The procedure for suspension of a permit for being out  
434 of compliance with an order for support, and the procedure for the  
435 reissuance or reinstatement of a permit suspended for that  
436 purpose, and the payment of any fees for the reissuance or  
437 reinstatement of a permit suspended for that purpose, shall be  
438 governed by Section 93-11-157 or 93-11-163, as the case may be.  
439 If there is any conflict between any provision of Section  
440 93-11-157 or 93-11-163 and any provision of this chapter, the  
441 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
442 shall control.

443       **SECTION 12.** Section 67-1-81, Mississippi Code of 1972, is  
444 amended as follows:

445       67-1-81. (1) (a) Any permittee or other person who shall  
446 sell, furnish, dispose of, give, or cause to be sold, furnished,  
447 disposed of, or given, any alcoholic beverage to any person under  
448 the age of twenty-one (21) years shall be guilty of a misdemeanor  
449 and shall be punished by a fine of not less than Five Hundred  
450 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)  
451 for a first offense. For a second or subsequent offense, such  
452 permittee or other person shall be punished by a fine of not less  
453 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand  
454 Dollars (\$2,000.00), or by imprisonment for not more than one (1)  
455 year, or by both such fine and imprisonment in the discretion of  
456 the court. Upon conviction of a second offense under the  
457 provisions of this section the permit of any permittee so  
458 convicted shall be automatically and permanently revoked.

459       (b) For the purposes of this subsection, the actions of  
460 an employee of a permittee shall not be attributable to the  
461 permittee if:

462       (i) All employees of the permittee who are servers  
463 as defined in the Responsible Alcohol Vendor Law possessed a valid  
464 server's certification at the time of the violation or all servers

465 had applied for server's certification within thirty (30) days  
466 after commencing employment; and

467 (ii) The permittee was without knowledge of the  
468 violation or did not participate in or commit such violation.

469 (2) Any person under the age of twenty-one (21) years who  
470 purchases, receives, or has in his or her possession in any public  
471 place, any alcoholic beverages, shall be guilty of a misdemeanor  
472 and shall be punished by a fine of not less than Two Hundred  
473 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).  
474 Provided, that clearing or busing tables that have glasses or  
475 other containers that contain or did contain alcoholic beverages,  
476 or stocking, bagging or otherwise handling purchases of alcoholic  
477 beverages shall not be deemed possession of alcoholic beverages  
478 for the purposes of this section. Provided further, that a person  
479 who is at least eighteen (18) years of age but under the age of  
480 twenty-one (21) years who waits on tables by taking orders for or  
481 delivering orders of alcoholic beverages shall not be deemed to  
482 unlawfully possess or furnish alcoholic beverages if in the scope  
483 of his employment by the holder of an on-premises retailer's  
484 permit. This exception shall not authorize a person under the age  
485 of twenty-one (21) to tend bar or act in the capacity of  
486 bartender. Any person under the age of twenty-one (21) who  
487 knowingly makes a false statement to the effect that he or she is  
488 twenty-one (21) years old or older to any person engaged in the  
489 sale of alcoholic beverages for the purpose of obtaining the same  
490 shall be guilty of a misdemeanor and shall be punished by a fine  
491 of not less than Two Hundred Dollars (\$200.00) nor more than Five  
492 Hundred Dollars (\$500.00), and a sentence to not more than thirty  
493 (30) days' community service.

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

498 (4) If a person under the age of twenty-one (21) years is  
499 convicted or enters a plea of guilty of purchasing, receiving or  
500 having in his or her possession in any public place any alcoholic  
501 beverages in violation of subsection (2) of this section, the  
502 trial judge, in lieu of the penalties otherwise provided under  
503 subsection (2) of this section, shall suspend the minor's driver's  
504 license by taking and keeping it in the custody of the court for a  
505 period of time not to exceed ninety (90) days. The judge so  
506 ordering the suspension shall enter upon his docket "DEFENDANT'S  
507 DRIVER'S LICENSE SUSPENDED FOR \_\_\_\_ DAYS IN LIEU OF CONVICTION"  
508 and such action by the trial judge shall not constitute a  
509 conviction. During the period that the minor's driver's license  
510 is suspended, the trial judge shall suspend the imposition of any  
511 fines or penalties that may be imposed under subsection (2) of  
512 this section and may place the minor on probation subject to such  
513 conditions as the judge deems appropriate. If the minor violates  
514 any of the conditions of probation, then the trial judge shall  
515 return the driver's license to the minor and impose the fines,  
516 penalties or both, that he would have otherwise imposed, and such  
517 action shall constitute a conviction.

518 **SECTION 13.** Section 67-3-29, Mississippi Code of 1972, is  
519 amended as follows:

520 67-3-29. (1) The commissioner shall revoke any permit  
521 granted by authority of this chapter to any person who shall  
522 violate any of the provisions of this chapter or the revenue laws  
523 of this state relating to engaging in transporting, storing,  
524 selling, distributing, possessing, receiving or manufacturing of  
525 wines or beers, or any person who shall hereafter be convicted of  
526 the unlawful sale of intoxicating liquor, or any person who shall  
527 allow or permit any form of illegal gambling or immorality on the  
528 premises described in such permit. The commissioner shall not  
529 revoke or suspend a permit of a retailer for the sale of light  
530 wine or beer to a person under the age of twenty-one (21) years

531 until there has been a conviction of the permit holder or an  
532 employee of the permit holder for such violation.

533 (2) If any person exercising any privilege taxable under the  
534 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,  
535 shall willfully neglect or refuse to comply with the provisions of  
536 such chapter, or any rules or regulations promulgated by the  
537 commissioner under authority of such chapter, or the provisions of  
538 this chapter, the commissioner shall be authorized to revoke the  
539 permit theretofore issued to such person, after giving to such  
540 person ten (10) days notice of the intention of the commissioner  
541 to revoke such permit. The commissioner may, however, suspend  
542 such permit instead of revoking same if, in his opinion,  
543 sufficient cause is shown for a suspension rather than revocation.  
544 Any person whose permit shall have been revoked by the  
545 commissioner shall be thereafter prohibited from exercising any  
546 privilege under the provisions of Chapter 71 of Title 27,  
547 Mississippi Code of 1972, for a period of two (2) years from the  
548 date of such revocation. The commissioner may, however, for good  
549 cause shown, grant a new permit upon such conditions as the  
550 commissioner may prescribe. Any person whose permit shall have  
551 been suspended by the commissioner shall be prohibited from  
552 exercising any privilege under the provisions of Chapter 71 of  
553 Title 27, Mississippi Code of 1972, during the period of such  
554 suspension. Failure of such person to comply with the terms of  
555 the suspension shall be cause for revocation of his permit, in  
556 addition to the other penalties provided by law.

557 (3) In addition to the reasons specified in this section and  
558 other provisions of this chapter, the commissioner shall be  
559 authorized to suspend the permit of any permit holder for being  
560 out of compliance with an order for support, as defined in Section  
561 93-11-153. The procedure for suspension of a permit for being out  
562 of compliance with an order for support, and the procedure for the  
563 reissuance or reinstatement of a permit suspended for that

564 purpose, and the payment of any fees for the reissuance or  
565 reinstatement of a permit suspended for that purpose, shall be  
566 governed by Section 93-11-157 or Section 93-11-163, as the case  
567 may be. If there is any conflict between any provision of Section  
568 93-11-157 or Section 93-11-163 and any provision of this chapter,  
569 the provisions of Section 93-11-157 or 93-11-163, as the case may  
570 be, shall control.

571 (4) In exercising its authority under this section, the  
572 commission shall recognize the defense created for permittees  
573 certified under the Responsible Alcohol Vendor Law.

574 **SECTION 14.** Section 67-3-69, Mississippi Code of 1972, is  
575 amended as follows:

576 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,  
577 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of  
578 this chapter or of any rule or regulation of the commissioner,  
579 shall be a misdemeanor and, where the punishment therefor is not  
580 elsewhere prescribed herein, shall be punished by a fine of not  
581 more than Five Hundred Dollars (\$500.00) or imprisonment for not  
582 more than six (6) months, or both, in the discretion of the court.  
583 If any person so convicted shall be the holder of any permit or  
584 license issued by the commissioner under authority of this  
585 chapter, such permit or license shall from and after the date of  
586 such conviction be void and the holder thereof shall not  
587 thereafter, for a period of one (1) year from the date of such  
588 conviction, be entitled to any permit or license for any purpose  
589 authorized by this chapter. Upon conviction of the holder of any  
590 permit or license, the appropriate law enforcement officer shall  
591 seize the permit or license and transmit it to the commissioner.

592 (2) (a) Any person who shall violate any provision of  
593 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a  
594 misdemeanor, and upon conviction thereof shall be punished by a  
595 fine of not more than Five Hundred Dollars (\$500.00) or by  
596 imprisonment in the county jail for not more than six (6) months,

597 or by both such fine and imprisonment, in the discretion of the  
598 court.

599 (b) Any person who shall violate any provision of  
600 Section 67-3-57 shall be guilty of a misdemeanor, and upon  
601 conviction thereof, shall be punished by a fine of not more than  
602 One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
603 jail for not more than one (1) year, or by both, in the discretion  
604 of the court. Any person convicted of violating any provision of  
605 the sections referred to in this subsection shall forfeit his  
606 permit, and shall not thereafter be permitted to engage in any  
607 business taxable under the provisions of Sections 27-71-301  
608 through 27-71-347.

609 (3) If the holder of a permit, or the employee of the holder  
610 of a permit, shall be convicted of selling any beer or wine to any  
611 person under the age of twenty-one (21) years from the licensed  
612 premises in violation of Section 67-3-53(b), then, in addition to  
613 any other penalty provided for by law, the holder of the permit,  
614 or employee of the holder of a permit, may be punished as follows:

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

620 (b) For a second offense occurring on the licensed  
621 premises within twelve (12) months of the first offense, by a fine  
622 of not less than Two Hundred Dollars (\$200.00) nor more than One  
623 Thousand Five Hundred Dollars (\$1,500.00) and/or the sale of beer  
624 or wine on the premises from which the sale occurred may be  
625 prohibited for six (6) months.

626 (c) For a third or subsequent offense occurring on the  
627 licensed premises within twelve (12) months of the first, by a  
628 fine of not less than One Thousand Dollars (\$1,000.00) nor more  
629 than Five Thousand Dollars (\$5,000.00) and/or the sale of beer or

630 wine on the premises from which the sale occurred may be  
631 prohibited for one (1) year.

632 (4) For the purposes of subsections (3)(a) and (3)(b) of  
633 this section, the actions of an employee of a holder of a permit  
634 shall not be attributable to the holder of the permit if:

635 (a) All employees of the holder who are servers as  
636 defined in the Responsible Alcohol Vender Law possessed a valid  
637 server's certification at the time of the violation or all servers  
638 had applied for server's certification within thirty (30) days  
639 after commencing employment; and

640 (b) The holder was without knowledge of the violation  
641 or did not participate in or commit such violation.

642 (5) A person who sells any beer or wine to a person under  
643 the age of twenty-one (21) years shall not be guilty of a  
644 violation of Section 67-3-53(b) if the person under the age of  
645 twenty-one (21) years represents himself to be twenty-one (21)  
646 years of age or older by displaying an apparently valid  
647 Mississippi driver's license containing a physical description  
648 consistent with his appearance or by displaying some other  
649 apparently valid identification document containing a picture and  
650 physical description consistent with his appearance for the  
651 purpose of inducing the person to sell beer or wine to him.

652 (6) If the holder of a permit to operate a brewpub is  
653 convicted of violating the provisions of Section 67-3-22(3), then,  
654 in addition to any other provision provided for by law, the holder  
655 of the permit shall be punished as follows:

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

659 (b) For a second offense occurring within twelve (12)  
660 months of the first offense, the holder of a permit to operate a  
661 brewpub may be fined an amount not to exceed One Thousand Dollars  
662 (\$1,000.00).

663           (c) For a third or subsequent offense occurring within  
664 twelve (12) months of the first offense, the holder of a permit to  
665 operate a brewpub may be fined an amount not to exceed Five  
666 Thousand Dollars (\$5,000.00) and the permit to operate a brewpub  
667 shall be suspended for thirty (30) days.

668           **SECTION 15.** Section 67-3-31, Mississippi Code of 1972, is  
669 amended as follows:

670           **[Until July 1, 2006, this section will read as follows:]**

671           67-3-31. Proceedings for the revocation or suspension of any  
672 permit authorizing the sale of beer or wine at retail for a  
673 violation of any of the provisions of Section 67-3-53 may be  
674 brought in the circuit or county court of the county in which the  
675 licensed premises are located. Such proceedings shall be entitled  
676 in the name of the state and against the permittee and shall be  
677 instituted by filing a complaint with the clerk of the court. The  
678 complaint may be filed by the county prosecuting attorney of the  
679 county upon his own initiative or, then by the district attorney  
680 of the district in which the county is located, and it shall be  
681 mandatory upon the county prosecuting attorney, or district  
682 attorney, as the case may be, to file a complaint when requested  
683 to do so by a peace officer or any person as hereinafter provided.  
684 Any peace officer within his jurisdiction or any enforcement  
685 officer of the Alcoholic Beverage Control Division within the  
686 State Tax Commission who learns that a retail permittee within his  
687 jurisdiction has violated any of the provisions of such section  
688 shall file with the county prosecuting attorney of the county in  
689 which the licensed premises are located, or, then with the  
690 district attorney of the district in which such county is located,  
691 an affidavit specifying in detail the facts alleged to constitute  
692 such violation, and requesting that a complaint be filed against  
693 the permittee for the revocation or suspension of his permit. A  
694 like affidavit may be filed with the county prosecuting attorney,  
695 or district attorney, as the case may be, by any person who

696 resides, and has for at least one (1) year prior thereto resided  
697 within the county in which the licensed premises are located  
698 requesting that a complaint be filed for the revocation or  
699 suspension of the permittee's permit. Promptly upon receiving any  
700 such affidavit the county prosecuting attorney, or district  
701 attorney, shall prepare a proper complaint, which shall be signed  
702 and sworn to by the person or persons filing the affidavit with  
703 him, and the county prosecuting attorney or district attorney  
704 shall file the complaint with the clerk of the circuit or county  
705 court.

706 **[From and after July 1, 2006, this section will read as**  
707 **follows:]**

708 67-3-31. Proceedings for the revocation or suspension of any  
709 permit authorizing the sale of beer or wine at retail for a  
710 violation of any of the provisions of Section 67-3-53 may be  
711 brought in the circuit or county court of the county in which the  
712 licensed premises are located. Such proceedings shall be entitled  
713 in the name of the state and against the permittee and shall be  
714 instituted by filing a complaint with the clerk of the court. The  
715 complaint may be filed by the county prosecuting attorney of the  
716 county upon his own initiative or, then by the district attorney  
717 of the district in which the county is located, and it shall be  
718 mandatory upon the county prosecuting attorney, or district  
719 attorney, as the case may be, to file a complaint when requested  
720 to do so by a peace officer or any person as hereinafter provided.  
721 Any peace officer who learns that a retail permittee within his  
722 jurisdiction has violated any of the provisions of such section  
723 shall file with the county prosecuting attorney of the county in  
724 which the licensed premises are located, or, then with the  
725 district attorney of the district in which such county is located,  
726 an affidavit specifying in detail the facts alleged to constitute  
727 such violation, and requesting that a complaint be filed against  
728 the permittee for the revocation or suspension of his permit. A

729 like affidavit may be filed with the county prosecuting attorney,  
730 or district attorney, as the case may be, by any person who  
731 resides, and has for at least one (1) year prior thereto resided  
732 within the county in which the licensed premises are located  
733 requesting that a complaint be filed for the revocation or  
734 suspension of the permittee's permit. Promptly upon receiving any  
735 such affidavit the county prosecuting attorney, or district  
736 attorney, shall prepare a proper complaint, which shall be signed  
737 and sworn to by the person or persons filing the affidavit with  
738 him, and the county prosecuting attorney or district attorney  
739 shall file the complaint with the clerk of the circuit or county  
740 court.

741       **SECTION 16.** Section 67-3-37, Mississippi Code of 1972, is  
742 amended as follows:

743       **[Until July 1, 2006, this section will read as follows:]**

744       67-3-37. It shall be the duty of the county prosecuting  
745 attorney or the district attorney, as the case may be, to file  
746 complaints as provided in Section 67-3-31 and to prosecute  
747 diligently and without delay all complaints filed by him.

748       It shall be the duty of all peace officers, within their  
749 jurisdiction, and all enforcement officers of the Alcoholic  
750 Beverage Control Division of the State Tax Commission to enforce  
751 the provisions of Section 67-3-53 and they shall frequently visit  
752 all licensed premises within their jurisdiction to determine  
753 whether such permittees are complying with the laws. They shall  
754 promptly investigate all complaints made to them by any citizen  
755 relative to any alleged violations of such section within their  
756 jurisdiction. When any peace officer or enforcement officer of  
757 the Alcoholic Beverage Control Division has knowledge of a  
758 violation of such section committed by a permittee within his  
759 jurisdiction, it shall be his duty forthwith to file an affidavit  
760 with the county prosecuting attorney or district attorney

761 requesting that a complaint be filed for the revocation or  
762 suspension of the permit of the permittee.

763 **[From and after July 1, 2006, this section will read as**  
764 **follows:]**

765 67-3-37. It shall be the duty of the county prosecuting  
766 attorney or the district attorney, as the case may be, to file  
767 complaints as provided in Section 67-3-31 and to prosecute  
768 diligently and without delay all complaints filed by him.

769 It shall be the duty of all peace officers to enforce, within  
770 their jurisdiction, the provisions of Section 67-3-53 and they  
771 shall frequently visit all licensed premises within their  
772 jurisdiction to determine whether such permittees are complying  
773 with the laws. They shall promptly investigate all complaints  
774 made to them by any citizen relative to any alleged violations of  
775 such section within their jurisdiction. When any peace officer  
776 has knowledge of a violation of such section committed by a  
777 permittee within his jurisdiction, it shall be his duty forthwith  
778 to file an affidavit with the county prosecuting attorney or  
779 district attorney requesting that a complaint be filed for the  
780 revocation or suspension of the permit of the permittee.

781 **SECTION 17.** Section 67-3-74, Mississippi Code of 1972, is  
782 amended as follows:

783 67-3-74. (1) In addition to peace officers within their  
784 jurisdiction, all enforcement officers of the Alcoholic Beverage  
785 Control Division of the State Tax Commission are authorized to  
786 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,  
787 67-3-53 and 67-3-70; \* \* \* however, \* \* \* the provisions  
788 prohibiting the sale of light wine or beer to persons under the  
789 age of twenty-one (21) years shall be enforced by the division as  
790 provided for in this section.

791 (2) (a) The Alcoholic Beverage Control Division shall  
792 investigate violations of the laws prohibiting the sale of light  
793 wine or beer to persons under the age of twenty-one (21) years

794 upon receipt of a complaint or information from a person stating  
795 that they have knowledge of such violation.

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

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

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

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

814 (3) The provisions of this section shall be repealed on July  
815 1, 2006.

816 **SECTION 18.** This act shall take effect and be in force from  
817 and after July 1, 2005.