

By: Senator(s) Robertson

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2561

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A RESPONSIBLE
2 ALCOHOL VENDOR PROGRAM DESIGNED TO TRAIN SERVERS EMPLOYED BY
3 PERSONS HOLDING A PERMIT TO SELL ALCOHOLIC BEVERAGES, BEER OR
4 LIGHT WINE AND TO ASSIST IN THE ELIMINATION OF THE SALE OF
5 ALCOHOLIC BEVERAGES, BEER AND LIGHT WINE TO UNDERAGE PERSONS AND
6 TO ENCOURAGE THE RESPONSIBLE SALE OF ALCOHOLIC BEVERAGES, BEER AND
7 LIGHT WINE; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL OVERSEE
8 THE PROGRAM; TO PROVIDE THAT THE COMMISSION SHALL APPROVE ALL
9 SERVER TRAINING COURSES AND ISSUE PERMITS TO APPROVED PROVIDERS;
10 TO PROVIDE THAT APPROVED PROVIDERS SHALL ISSUE SERVER CERTIFICATES
11 TO SERVERS UPON SUCCESSFUL COMPLETION OF A SERVER TRAINING COURSE;
12 TO PROVIDE THAT IF A VENDOR'S EMPLOYEE SELLS ALCOHOLIC BEVERAGES,
13 BEER OR LIGHT WINE TO UNDERAGE OR VISIBLY INTOXICATED PERSONS THE
14 VENDOR'S PERMIT SHALL NOT BE SUSPENDED OR REVOKED BY THE
15 COMMISSION FOR THE FIRST OFFENSE COMMITTED ON THE PERMITTED
16 PREMISES WITHIN A TWELVE-MONTH PERIOD IF ALL SERVERS OF THE VENDOR
17 POSSESS A VALID SERVER'S CERTIFICATION AT THE TIME OF THE
18 VIOLATION OR ALL SERVERS HAVE APPLIED FOR SERVER'S CERTIFICATION
19 WITHIN 30 DAYS AFTER COMMENCING EMPLOYMENT, AND THE VENDOR WAS
20 WITHOUT KNOWLEDGE OF THE VIOLATION OR DID NOT PARTICIPATE IN OR
21 COMMIT THE VIOLATION; TO PROVIDE FOR FEES FOR APPROVED PROVIDER
22 PERMITS; TO AMEND SECTIONS 67-1-37, 67-1-71, 67-1-81, 67-3-29 AND
23 67-3-69, MISSISSIPPI CODE OF 1972, TO GIVE THE STATE TAX
24 COMMISSION CERTAIN ADDITIONAL POWERS AND DUTIES UNDER THE
25 ALCOHOLIC BEVERAGE, LIGHT WINE AND BEER LAWS; TO AUTHORIZE THE
26 COMMISSION TO IMPOSE CERTAIN PENALTIES UPON PERMIT HOLDERS FOR
27 SALES MADE ON THE LICENSED PREMISES TO UNDERAGE PERSONS AND
28 PERSONS WHO ARE VISIBLY INTOXICATED; TO AMEND SECTIONS 67-1-37,
29 67-3-31, 67-3-37 AND 67-3-74, MISSISSIPPI CODE OF 1972, TO EXTEND
30 UNTIL JULY 1, 2007, THE REPEAL DATE ON THE PROVISIONS THAT
31 AUTHORIZE THE ENFORCEMENT AGENTS OF THE ALCOHOLIC BEVERAGE CONTROL
32 DIVISION OF THE STATE TAX COMMISSION TO ENFORCE CERTAIN PROVISIONS
33 OF THE LIGHT WINE AND BEER LAWS; AND FOR RELATED PURPOSES.

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

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

38 **SECTION 2.** The purpose of this act is to eliminate the sale
39 of alcoholic beverages, beer and light wine to, and the
40 consumption of alcoholic beverages, beer, and light wine by,
41 underage persons; to reduce intoxication and to reduce accidents,
42 injuries, and death in the state which are related to

43 intoxication; and to encourage the responsible sale of alcoholic
44 beverages, beer and light wine by vendors throughout the state and
45 provide for the mitigation of administrative penalties against
46 vendors who comply with responsible practices in accordance with
47 this act.

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

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

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

52 (c) "Vendor" means any person holding a permit to sell
53 alcoholic beverages, beer or light wine.

54 (d) "Server" means any employee of a vendor who is
55 authorized to sell, serve, or mix alcoholic beverages, beer or
56 light wine in the normal course of his or her employment.

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

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

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

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

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

73 (b) Issue and renew approved provider permits.

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

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

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

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

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

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

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

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

113 (2) The vendor shall have the burden of proof in showing
114 that his or her employees were trained or had applied for training
115 within thirty (30) days of commencing employment.

116 **SECTION 8.** The commission may promulgate rules and
117 regulations to effectuate the program. The commission shall
118 effect the formation of an industry advisory council to provide
119 comment on the proposed initial rules and regulations.

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

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

132 **[Until July 1, 2007, this section will read as follows:]**

133 67-1-37. The State Tax Commission, under its duties and
134 powers with respect to the Alcoholic Beverage Control Division
135 therein, shall have the following powers, functions and duties:

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

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

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

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

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

171 (f) To issue reasonable rules and regulations, not
172 inconsistent with the federal laws or regulations, requiring

173 informative labeling of all alcoholic beverages offered for sale
174 within this state and providing for the standards of fill and
175 shapes of retail containers of alcoholic beverages; however, such
176 containers shall not contain less than fifty (50) milliliters by
177 liquid measure.

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

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

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

201 (j) To prepare and submit to the Governor during the
202 month of January of each year a detailed report of its official
203 acts during the preceding fiscal year ending June 30, including
204 such recommendations as it may see fit to make, and to transmit a

205 like report to each member of the Legislature of this state upon
206 the convening thereof at its next regular session.

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

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

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

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

232 (o) To assign employees to posts of duty at locations
233 where they will be most beneficial for the control of alcoholic
234 beverages, to remove, to dismiss, to suspend without pay, to act
235 as a trial board in hearings based upon charges against employees.
236 After twelve (12) months' service, no employee shall be removed,
237 dismissed, demoted or suspended without just cause and only after

238 being furnished with reasons for such removal, dismissal, demotion
239 or suspension, and upon request given a hearing in his own
240 defense.

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

244 (q) To adopt and promulgate rules and regulations for
245 suspension or revocation of identification cards of employees of
246 permittees for violations of the alcoholic beverage control laws,
247 rules or regulations.

248 (r) To enforce the provisions made unlawful by Sections
249 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

252 **[From and after July 1, 2007, this section will read as**
253 **follows:]**

254 67-1-37. The State Tax Commission, under its duties and
255 powers with respect to the Alcoholic Beverage Control Division
256 therein, shall have the following powers, functions and duties:

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

261 (b) To revoke, suspend or cancel, for violation of or
262 noncompliance with the provisions of this chapter, or the law
263 governing the production and sale of native wines, or any lawful
264 rules and regulations of the commission issued hereunder, or for
265 other sufficient cause, any permit issued by it under the
266 provisions of this chapter; however, no such permit shall be
267 revoked, suspended or cancelled except after a hearing of which
268 the permit holder shall have been given reasonable notice and an
269 opportunity to be heard. The commission shall be authorized to
270 suspend the permit of any permit holder for being out of

271 compliance with an order for support, as defined in Section
272 93-11-153. The procedure for suspension of a permit for being out
273 of compliance with an order for support, and the procedure for the
274 reissuance or reinstatement of a permit suspended for that
275 purpose, and the payment of any fees for the reissuance or
276 reinstatement of a permit suspended for that purpose, shall be
277 governed by Section 93-11-157 or 93-11-163, as the case may be.
278 If there is any conflict between any provision of Section
279 93-11-157 or 93-11-163 and any provision of this chapter, the
280 provisions of Section 93-11-157 or 93-11-163, as the case may be,
281 shall control.

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

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

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

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

299 (g) Subject to the provisions of subsection (3) of
300 Section 67-1-51, to issue rules and regulations governing the
301 issuance of retail permits for premises located near or around
302 schools, colleges, universities, churches and other public
303 institutions, and specifying the distances therefrom within which

304 no such permit shall be issued. The Alcoholic Beverage Control
305 Division shall not allow the sale or consumption of alcoholic
306 beverages in or on the campus of any public school or college, and
307 no alcoholic beverage shall be for sale or consumed at any public
308 athletic event at any grammar or high school or any college.

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

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

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

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

333 (l) In the conduct of any hearing authorized to be held
334 by the commission, to hear testimony and take proof material for
335 its information in the discharge of its duties under this chapter;
336 to issue subpoenas, which shall be effective in any part of this

337 state, requiring the attendance of witnesses and the production of
338 books and records; to administer or cause to be administered
339 oaths; and to examine or cause to be examined any witness under
340 oath. Any court of record, or any judge thereof, may by order
341 duly entered require the attendance of witnesses and the
342 production of relevant books subpoenaed by the commission, and
343 such court or judge may compel obedience to its or his order by
344 proceedings for contempt.

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

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

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

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

365 (q) To adopt and promulgate rules and regulations for
366 suspension or revocation of identification cards of employees of
367 permittees for violations of the alcoholic beverage control laws,
368 rules or regulations.

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

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

373 67-1-71. The commission may revoke or suspend any permit
374 issued by it or impose administrative fines for a violation by the
375 permittee of any of the provisions of this chapter or of the
376 regulations promulgated under it by the commission.

377 Permits must be revoked or suspended, or administrative fines
378 imposed for the following causes:

379 (a) Conviction of the permittee for the violation of
380 any of the provisions of this chapter;

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

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

386 (d) Conviction of the permittee or one or more of the
387 clerks, agents or employees of the permittee, of any violation of
388 this chapter upon the premises covered by such permit within a
389 period of time as designated by law or the rules or regulations of
390 the commission;

391 (e) The possession on the premises of any retail
392 permittee of any alcoholic beverages upon which the tax has not
393 been paid;

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

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

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

403 (i) The conducting of any form of illegal gambling on
404 the premises of any permittee or on any premises connected
405 therewith or the presence on any such premises of any gambling
406 device with the knowledge of the permittee.

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

418 In exercising its authority under this section, the
419 commission shall recognize the defense created for permittees
420 certified under the Responsible Alcohol Vendor Law.

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

424 In addition to the causes specified in this section and other
425 provisions of this chapter, the commission shall be authorized to
426 suspend the permit of any permit holder for being out of
427 compliance with an order for support, as defined in Section
428 93-11-153. The procedure for suspension of a permit for being out
429 of compliance with an order for support, and the procedure for the
430 reissuance or reinstatement of a permit suspended for that
431 purpose, and the payment of any fees for the reissuance or
432 reinstatement of a permit suspended for that purpose, shall be

433 governed by Section 93-11-157 or 93-11-163, as the case may be.
434 If there is any conflict between any provision of Section
435 93-11-157 or 93-11-163 and any provision of this chapter, the
436 provisions of Section 93-11-157 or 93-11-163, as the case may be,
437 shall control.

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

440 67-1-81. (1) Any permittee or other person who shall sell,
441 furnish, dispose of, give, or cause to be sold, furnished,
442 disposed of, or given, any alcoholic beverage to any person under
443 the age of twenty-one (21) years shall be guilty of a misdemeanor
444 and shall be punished by a fine of not less than Five Hundred
445 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)
446 for a first offense. For a second or subsequent offense, such
447 permittee or other person shall be punished by a fine of not less
448 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand
449 Dollars (\$2,000.00), or by imprisonment for not more than one (1)
450 year, or by both such fine and imprisonment in the discretion of
451 the court. Upon conviction of a second offense under the
452 provisions of this section the permit of any permittee so
453 convicted shall be automatically and permanently revoked.

454 (2) If the permittee or an employee of the permittee is
455 convicted of selling any alcoholic beverage to any person under
456 the age of twenty-one (21) years on the licensed premises or to
457 any person who is visibly intoxicated, in addition to any other
458 penalty provided by law, the commission may impose the following
459 penalties against the permittee:

460 (a) For a first offense occurring on the licensed
461 premises, a fine of not less than Five Hundred Dollars (\$500.00)
462 nor more than One Thousand Dollars (\$1,000.00) and/or suspension
463 of the permit for not more than three (3) months; however, if all
464 employees of the permittee who are servers as defined in the
465 Responsible Alcohol Vendor Law possessed a valid server's

466 certification at the time of the violation or all servers had
467 applied for server's certification within thirty (30) days after
468 commencing employment and the permittee was without knowledge of
469 the violation or did not participate in or commit the violation,
470 the commission shall impose no penalty.

471 (b) For a second offense occurring on the licensed
472 premises within twelve (12) months of the first offense, by a fine
473 of not less than One Thousand Dollars (\$1,000.00) nor more than
474 Two Thousand Dollars (\$2,000.00), and/or suspension of the permit
475 for not more than six (6) months.

476 (c) For a third offense occurring on the licensed
477 premises within twelve (12) months of the first offense, by a fine
478 of not less than Two Thousand Dollars (\$2,000.00) nor more than
479 Five Thousand Dollars (\$5,000.00), and/or suspension or revocation
480 of the permit. In determining whether the permit should be
481 revoked the commission may consider the permittee's participation
482 in the Responsible Alcohol Vendor Law.

483 (d) For a fourth offense occurring on the licensed
484 premises within twelve (12) months of the first offense, by a fine
485 of not less than Two Thousand Dollars (\$2,000.00) nor more than
486 Five Thousand Dollars (\$5,000.00), and/or revocation of the
487 permit. In determining whether the permit should be revoked the
488 commission shall not consider the permittee's participation in the
489 Responsible Alcohol Vendor Law.

490 (3) Any person under the age of twenty-one (21) years who
491 purchases, receives, or has in his or her possession in any public
492 place, any alcoholic beverages, shall be guilty of a misdemeanor
493 and shall be punished by a fine of not less than Two Hundred
494 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).
495 Provided, that clearing or busing tables that have glasses or
496 other containers that contain or did contain alcoholic beverages,
497 or stocking, bagging or otherwise handling purchases of alcoholic
498 beverages shall not be deemed possession of alcoholic beverages

499 for the purposes of this section. Provided further, that a person
500 who is at least eighteen (18) years of age but under the age of
501 twenty-one (21) years who waits on tables by taking orders for or
502 delivering orders of alcoholic beverages shall not be deemed to
503 unlawfully possess or furnish alcoholic beverages if in the scope
504 of his employment by the holder of an on-premises retailer's
505 permit. This exception shall not authorize a person under the age
506 of twenty-one (21) to tend bar or act in the capacity of
507 bartender. Any person under the age of twenty-one (21) who
508 knowingly makes a false statement to the effect that he or she is
509 twenty-one (21) years old or older to any person engaged in the
510 sale of alcoholic beverages for the purpose of obtaining the same
511 shall be guilty of a misdemeanor and shall be punished by a fine
512 of not less than Two Hundred Dollars (\$200.00) nor more than Five
513 Hundred Dollars (\$500.00), and a sentence to not more than thirty
514 (30) days' community service.

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

519 (5) If a person under the age of twenty-one (21) years is
520 convicted or enters a plea of guilty of purchasing, receiving or
521 having in his or her possession in any public place any alcoholic
522 beverages in violation of subsection (3) of this section, the
523 trial judge, in lieu of the penalties otherwise provided under
524 subsection (3) of this section, shall suspend the minor's driver's
525 license by taking and keeping it in the custody of the court for a
526 period of time not to exceed ninety (90) days. The judge so
527 ordering the suspension shall enter upon his docket "DEFENDANT'S
528 DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF CONVICTION"
529 and such action by the trial judge shall not constitute a
530 conviction. During the period that the minor's driver's license
531 is suspended, the trial judge shall suspend the imposition of any

532 fines or penalties that may be imposed under subsection (3) of
533 this section and may place the minor on probation subject to such
534 conditions as the judge deems appropriate. If the minor violates
535 any of the conditions of probation, then the trial judge shall
536 return the driver's license to the minor and impose the fines,
537 penalties or both, that he would have otherwise imposed, and such
538 action shall constitute a conviction.

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

541 67-3-29. (1) The commissioner shall revoke any permit
542 granted by authority of this chapter to any person who shall
543 violate any of the provisions of this chapter or the revenue laws
544 of this state relating to engaging in transporting, storing,
545 selling, distributing, possessing, receiving or manufacturing of
546 wines or beers, or any person who shall hereafter be convicted of
547 the unlawful sale of intoxicating liquor, or any person who shall
548 allow or permit any form of illegal gambling or immorality on the
549 premises described in such permit. The commissioner shall not
550 revoke or suspend a permit of a retailer for the sale of light
551 wine or beer to a person under the age of twenty-one (21) years
552 until there has been a conviction of the permit holder or an
553 employee of the permit holder for such violation.

554 (2) If any person exercising any privilege taxable under the
555 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,
556 shall willfully neglect or refuse to comply with the provisions of
557 such chapter, or any rules or regulations promulgated by the
558 commissioner under authority of such chapter, or the provisions of
559 this chapter, the commissioner shall be authorized to revoke the
560 permit theretofore issued to such person, after giving to such
561 person ten (10) days notice of the intention of the commissioner
562 to revoke such permit. The commissioner may, however, suspend
563 such permit instead of revoking same if, in his opinion,
564 sufficient cause is shown for a suspension rather than revocation.

565 Any person whose permit shall have been revoked by the
566 commissioner shall be thereafter prohibited from exercising any
567 privilege under the provisions of Chapter 71 of Title 27,
568 Mississippi Code of 1972, for a period of two (2) years from the
569 date of such revocation. The commissioner may, however, for good
570 cause shown, grant a new permit upon such conditions as the
571 commissioner may prescribe. Any person whose permit shall have
572 been suspended by the commissioner shall be prohibited from
573 exercising any privilege under the provisions of Chapter 71 of
574 Title 27, Mississippi Code of 1972, during the period of such
575 suspension. Failure of such person to comply with the terms of
576 the suspension shall be cause for revocation of his permit, in
577 addition to the other penalties provided by law.

578 (3) In addition to the reasons specified in this section and
579 other provisions of this chapter, the commissioner shall be
580 authorized to suspend the permit of any permit holder for being
581 out of compliance with an order for support, as defined in Section
582 93-11-153. The procedure for suspension of a permit for being out
583 of compliance with an order for support, and the procedure for the
584 reissuance or reinstatement of a permit suspended for that
585 purpose, and the payment of any fees for the reissuance or
586 reinstatement of a permit suspended for that purpose, shall be
587 governed by Section 93-11-157 or Section 93-11-163, as the case
588 may be. If there is any conflict between any provision of Section
589 93-11-157 or Section 93-11-163 and any provision of this chapter,
590 the provisions of Section 93-11-157 or 93-11-163, as the case may
591 be, shall control.

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

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

597 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
598 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
599 this chapter or of any rule or regulation of the commissioner,
600 shall be a misdemeanor and, where the punishment therefor is not
601 elsewhere prescribed herein, shall be punished by a fine of not
602 more than Five Hundred Dollars (\$500.00) or imprisonment for not
603 more than six (6) months, or both, in the discretion of the court.
604 If any person so convicted shall be the holder of any permit or
605 license issued by the commissioner under authority of this
606 chapter, such permit or license shall from and after the date of
607 such conviction be void and the holder thereof shall not
608 thereafter, for a period of one (1) year from the date of such
609 conviction, be entitled to any permit or license for any purpose
610 authorized by this chapter. Upon conviction of the holder of any
611 permit or license, the appropriate law enforcement officer shall
612 seize the permit or license and transmit it to the commissioner.

613 (2) (a) Any person who shall violate any provision of
614 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a
615 misdemeanor, and upon conviction thereof shall be punished by a
616 fine of not more than Five Hundred Dollars (\$500.00) or by
617 imprisonment in the county jail for not more than six (6) months,
618 or by both such fine and imprisonment, in the discretion of the
619 court.

620 (b) Any person who shall violate any provision of
621 Section 67-3-57 shall be guilty of a misdemeanor, and upon
622 conviction thereof, shall be punished by a fine of not more than
623 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
624 jail for not more than one (1) year, or by both, in the discretion
625 of the court. Any person convicted of violating any provision of
626 the sections referred to in this subsection shall forfeit his
627 permit, and shall not thereafter be permitted to engage in any
628 business taxable under the provisions of Sections 27-71-301
629 through 27-71-347.

630 (3) If the holder of a permit, or the employee of the holder
631 of a permit, shall be convicted of selling any beer or wine to
632 anyone who is visibly intoxicated from the licensed premises or to
633 any person under the age of twenty-one (21) years from the
634 licensed premises in violation of Section 67-3-53(b), then, in
635 addition to any other penalty provided for by law, the
636 commissioner may impose the following penalties against the holder
637 of a permit:

638 (a) For the first offense on the licensed premises, by
639 a fine of not less than Five Hundred Dollars (\$500.00) nor more
640 than One Thousand Dollars (\$1,000.00) and/or suspension of the
641 permit for not more than three (3) months; however, if all
642 employees of the permittee who are servers as defined in the
643 Responsible Alcohol Vendor Law possessed a valid server's
644 certification at the time of the violation or all servers had
645 applied for server's certification within thirty (30) days after
646 commencing employment and the permittee was without knowledge of
647 the violation or did not participate in or commit the violation,
648 the commission shall impose no penalty.

649 (b) For a second offense occurring on the licensed
650 premises within twelve (12) months of the first offense, by a fine
651 of not less than One Thousand Dollars (\$1,000.00) nor more than
652 Two Thousand Dollars (\$2,000.00) and/or suspension of the permit
653 for not more than six (6) months.

654 (c) For a third * * * offense occurring on the licensed
655 premises within twelve (12) months of the first, by a fine of not
656 less than Two Thousand Dollars (\$2,000.00) nor more than Five
657 Thousand Dollars (\$5,000.00) and/or suspension or revocation of
658 the permit to sell beer or light wine * * *. In determining
659 whether the permit should be revoked, the commission may consider
660 the permittee's participation in the Responsible Alcohol Vendor
661 Law.

662 (d) For a fourth or subsequent offense occurring on the
663 licensed premises within twelve (12) months of the first, by a
664 fine of not less than Two Thousand Dollars (\$2,000.00) nor more
665 than Five Thousand Dollars (\$5,000.00) and/or suspension or
666 revocation of the permit to sell beer or light wine. In
667 determining whether the permit should be revoked the commission
668 shall not consider the permittee's participation in the
669 Responsible Alcohol Vendor Law.

670 (4) A person who sells any beer or wine to a person under
671 the age of twenty-one (21) years shall not be guilty of a
672 violation of Section 67-3-53(b) if the person under the age of
673 twenty-one (21) years represents himself to be twenty-one (21)
674 years of age or older by displaying an apparently valid
675 Mississippi driver's license containing a physical description
676 consistent with his appearance or by displaying some other
677 apparently valid identification document containing a picture and
678 physical description consistent with his appearance for the
679 purpose of inducing the person to sell beer or wine to him.

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

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

687 (b) For a second offense occurring within twelve (12)
688 months of the first offense, the holder of a permit to operate a
689 brewpub may be fined an amount not to exceed One Thousand Dollars
690 (\$1,000.00).

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

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

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

698 **[Until July 1, 2007, this section will read as follows:]**

699 67-3-31. Proceedings for the revocation or suspension of any
700 permit authorizing the sale of beer or wine at retail for a
701 violation of any of the provisions of Section 67-3-53 may be
702 brought in the circuit or county court of the county in which the
703 licensed premises are located. Such proceedings shall be entitled
704 in the name of the state and against the permittee and shall be
705 instituted by filing a complaint with the clerk of the court. The
706 complaint may be filed by the county prosecuting attorney of the
707 county upon his own initiative or, then by the district attorney
708 of the district in which the county is located, and it shall be
709 mandatory upon the county prosecuting attorney, or district
710 attorney, as the case may be, to file a complaint when requested
711 to do so by a peace officer or any person as hereinafter provided.
712 Any peace officer within his jurisdiction or any enforcement
713 officer of the Alcoholic Beverage Control Division within the
714 State Tax Commission who learns that a retail permittee within his
715 jurisdiction has violated any of the provisions of such section
716 shall file with the county prosecuting attorney of the county in
717 which the licensed premises are located, or, then with the
718 district attorney of the district in which such county is located,
719 an affidavit specifying in detail the facts alleged to constitute
720 such violation, and requesting that a complaint be filed against
721 the permittee for the revocation or suspension of his permit. A
722 like affidavit may be filed with the county prosecuting attorney,
723 or district attorney, as the case may be, by any person who
724 resides, and has for at least one (1) year prior thereto resided
725 within the county in which the licensed premises are located
726 requesting that a complaint be filed for the revocation or

727 suspension of the permittee's permit. Promptly upon receiving any
728 such affidavit the county prosecuting attorney, or district
729 attorney, shall prepare a proper complaint, which shall be signed
730 and sworn to by the person or persons filing the affidavit with
731 him, and the county prosecuting attorney or district attorney
732 shall file the complaint with the clerk of the circuit or county
733 court.

734 **[From and after July 1, 2007, this section will read as**
735 **follows:]**

736 67-3-31. Proceedings for the revocation or suspension of any
737 permit authorizing the sale of beer or wine at retail for a
738 violation of any of the provisions of Section 67-3-53 may be
739 brought in the circuit or county court of the county in which the
740 licensed premises are located. Such proceedings shall be entitled
741 in the name of the state and against the permittee and shall be
742 instituted by filing a complaint with the clerk of the court. The
743 complaint may be filed by the county prosecuting attorney of the
744 county upon his own initiative or, then by the district attorney
745 of the district in which the county is located, and it shall be
746 mandatory upon the county prosecuting attorney, or district
747 attorney, as the case may be, to file a complaint when requested
748 to do so by a peace officer or any person as hereinafter provided.
749 Any peace officer who learns that a retail permittee within his
750 jurisdiction has violated any of the provisions of such section
751 shall file with the county prosecuting attorney of the county in
752 which the licensed premises are located, or, then with the
753 district attorney of the district in which such county is located,
754 an affidavit specifying in detail the facts alleged to constitute
755 such violation, and requesting that a complaint be filed against
756 the permittee for the revocation or suspension of his permit. A
757 like affidavit may be filed with the county prosecuting attorney,
758 or district attorney, as the case may be, by any person who
759 resides, and has for at least one (1) year prior thereto resided

760 within the county in which the licensed premises are located
761 requesting that a complaint be filed for the revocation or
762 suspension of the permittee's permit. Promptly upon receiving any
763 such affidavit the county prosecuting attorney, or district
764 attorney, shall prepare a proper complaint, which shall be signed
765 and sworn to by the person or persons filing the affidavit with
766 him, and the county prosecuting attorney or district attorney
767 shall file the complaint with the clerk of the circuit or county
768 court.

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

771 **[Until July 1, 2007, this section will read as follows:]**

772 67-3-37. It shall be the duty of the county prosecuting
773 attorney or the district attorney, as the case may be, to file
774 complaints as provided in Section 67-3-31 and to prosecute
775 diligently and without delay all complaints filed by him.

776 It shall be the duty of all peace officers, within their
777 jurisdiction, and all enforcement officers of the Alcoholic
778 Beverage Control Division of the State Tax Commission to enforce
779 the provisions of Section 67-3-53 and they shall frequently visit
780 all licensed premises within their jurisdiction to determine
781 whether such permittees are complying with the laws. They shall
782 promptly investigate all complaints made to them by any citizen
783 relative to any alleged violations of such section within their
784 jurisdiction. When any peace officer or enforcement officer of
785 the Alcoholic Beverage Control Division has knowledge of a
786 violation of such section committed by a permittee within his
787 jurisdiction, it shall be his duty forthwith to file an affidavit
788 with the county prosecuting attorney or district attorney
789 requesting that a complaint be filed for the revocation or
790 suspension of the permit of the permittee.

791 **[From and after July 1, 2007, this section will read as**
792 **follows:]**

793 67-3-37. It shall be the duty of the county prosecuting
794 attorney or the district attorney, as the case may be, to file
795 complaints as provided in Section 67-3-31 and to prosecute
796 diligently and without delay all complaints filed by him.

797 It shall be the duty of all peace officers to enforce, within
798 their jurisdiction, the provisions of Section 67-3-53 and they
799 shall frequently visit all licensed premises within their
800 jurisdiction to determine whether such permittees are complying
801 with the laws. They shall promptly investigate all complaints
802 made to them by any citizen relative to any alleged violations of
803 such section within their jurisdiction. When any peace officer
804 has knowledge of a violation of such section committed by a
805 permittee within his jurisdiction, it shall be his duty forthwith
806 to file an affidavit with the county prosecuting attorney or
807 district attorney requesting that a complaint be filed for the
808 revocation or suspension of the permit of the permittee.

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

811 67-3-74. (1) In addition to peace officers within their
812 jurisdiction, all enforcement officers of the Alcoholic Beverage
813 Control Division of the State Tax Commission are authorized to
814 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,
815 67-3-53 and 67-3-70; provided, however, that the provisions
816 prohibiting the sale of light wine or beer to persons under the
817 age of twenty-one (21) years shall be enforced by the division as
818 provided for in this section.

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

824 (b) Upon receipt of such complaint or information, the
825 Alcoholic Beverage Control Division shall notify the permit holder

826 of the complaint by certified mail to the primary business office
827 of such permit holder or by hand delivery of the complaint or
828 information to the primary business office of such holder, except
829 in cases where the complaint or information is received from any
830 law enforcement officer.

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

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

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

842 (3) The provisions of this section shall be repealed on July
843 1, 2007.

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