

By: Senator(s) Walls

To: Finance

SENATE BILL NO. 2616

1 AN ACT TO ESTABLISH THE LOCAL LAW ENFORCEMENT ASSISTANCE
 2 PROGRAM UNDER THE DIRECTION OF THE MISSISSIPPI DEVELOPMENT
 3 AUTHORITY FOR THE PURPOSE OF MAKING GRANTS TO COUNTY AND MUNICIPAL
 4 GOVERNMENTS FOR THEIR USE IN PROVIDING ASSISTANCE TO SHERIFFS AND
 5 POLICE DEPARTMENTS UNDER THEIR JURISDICTION; TO PROVIDE THAT MONEY
 6 RECEIVED BY A COUNTY OR MUNICIPALITY UNDER THE PROGRAM SHALL BE
 7 UTILIZED TO SUPPLEMENT THE SALARIES OF LAW ENFORCEMENT PERSONNEL
 8 OR TO PURCHASE UNIFORMS OR EQUIPMENT FOR SHERIFFS AND POLICE
 9 DEPARTMENTS; TO CREATE A SPECIAL FUND TO PROVIDE MONEY FOR SUCH
 10 GRANTS; TO AMEND SECTIONS 27-69-13, 27-69-31, 27-69-75, 27-71-7,
 11 27-71-29, 27-71-307, 27-71-337, 75-76-129 AND 75-76-177,
 12 MISSISSIPPI CODE OF 1972, TO INCREASE THE TAX ON TOBACCO PRODUCTS,
 13 ALCOHOLIC BEVERAGES, LIGHT WINE AND BEER AND TO INCREASE GAMING
 14 FEES; TO REQUIRE THE REVENUE FROM SUCH INCREASES TO BE DEPOSITED
 15 INTO THE SPECIAL FUND CREATED TO FUND THE GRANT PROGRAM
 16 ESTABLISHED BY THIS ACT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** (1) There is hereby established, under the
 19 direction of the Mississippi Development Authority, the Local
 20 Government Law Enforcement Assistance Program for the purpose of
 21 making grants to county and municipal governments for their use in
 22 providing assistance to sheriffs and police departments under
 23 their jurisdiction.

24 (2) Money received by any county or municipality under the
 25 program shall be utilized to:

26 (a) Supplement the salaries of law enforcement
 27 personnel; or

28 (b) Purchase uniforms or equipment for sheriffs and
 29 police departments under their jurisdiction.

30 (3) Any county or municipality desiring to participate in
 31 the program shall make application to the Mississippi Development
 32 Authority in a form satisfactory to the Mississippi Development
 33 Authority. The application shall detail the uses for which the
 34 grant is sought and contain such other information as the

35 Mississippi Development Authority may require. In providing
36 grants under the program, the Mississippi Development Authority
37 shall give priority to counties and municipalities with
38 populations of ten thousand (10,000) or less according to the
39 latest federal decennial census.

40 (4) There is created in the State Treasury a special fund
41 which shall be comprised of the money required to be deposited
42 into the fund under Sections 27-69-75, 27-71-29, 27-71-337 and
43 75-76-129, and money appropriated to such fund by the Legislature.
44 Money in the fund shall be utilized by the Mississippi Development
45 Authority, upon appropriation by the Legislature, for the purpose
46 of making grants under the Local Government Law Enforcement
47 Assistance Program. Unexpended amounts remaining in the special
48 fund at the end of a fiscal year shall not lapse into the General
49 Fund, and any interest earned or investment earnings on amounts in
50 the special fund shall be deposited to the credit of the special
51 fund.

52 **SECTION 2.** Section 27-69-13, Mississippi Code of 1972, is
53 amended as follows:

54 27-69-13. (1) There is * * * imposed, levied and assessed,
55 to be collected and paid as hereinafter provided in this chapter,
56 an excise tax on each person or dealer in cigarettes, cigars,
57 stogies, snuff, chewing tobacco, and smoking tobacco, or
58 substitutes therefor, upon the sale, use, consumption, handling or
59 distribution in the State of Mississippi, as follows:

60 (a) On cigarettes, the rate of tax shall be
61 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette
62 sold with a maximum length of one hundred twenty (120)
63 millimeters; any cigarette in excess of this length shall be taxed
64 as if it were two (2) or more cigarettes. * * * However, if the
65 federal tax rate on cigarettes in effect on June 1, 1985, is
66 reduced, then the rate as provided in this paragraph (a) shall be
67 increased by the amount of the federal tax reduction. Such tax

68 increase shall take effect on the first day of the month following
69 the effective date of such reduction in the federal tax rate.

70 (b) On cigars, cheroots, stogies, snuff, chewing and
71 smoking tobacco and all other tobacco products except cigarettes,
72 the rate of tax shall be fifteen percent (15%) of the
73 manufacturer's list price.

74 (c) In addition to the excise tax levied in paragraph
75 (a) of this subsection, there is levied an additional excise tax
76 equal to one percent (1%) of the tax levied in paragraph (a) of
77 this subsection.

78 (d) In addition to the excise tax levied in paragraph
79 (b) of this subsection, there is levied an excise tax of one
80 percent (1%) of the manufacturer's list price on cigars, cheroots,
81 stogies, snuff, chewing and smoking tobacco and all other tobacco
82 products, except cigarettes.

83 (e) On or before the fifteenth day of August and the
84 fifteenth day of each succeeding month thereafter, the revenue
85 derived from the excise tax levied by paragraphs (c) and (d) of
86 this subsection shall be deposited into a special fund as provided
87 in Section 27-69-75.

88 (2) No stamp evidencing the tax * * * levied on cigarettes
89 by this section shall be of a denomination of less than One Cent
90 (1¢), and whenever the tax computed at the rates * * * prescribed
91 on cigarettes in this section shall be a specified amount, plus a
92 fractional part of One Cent (1¢), the package shall be stamped for
93 the next full cent. However, (a) the additional face value of
94 stamps purchased to comply with taxes imposed by subsection (1)(a)
95 of this section after June 1, 1985, shall be subject to a four
96 percent (4%) discount or compensation to dealers for their
97 services rather than the eight percent (8%) discount or
98 compensation allowed by Section 27-69-31; and (b) the additional
99 face value of stamps purchased to comply with taxes imposed by
100 subsection (1)(c) of this section after July 1, 2006, shall be

101 subject to a four percent (4%) discount or compensation to dealers
102 for their services rather than the eight percent (8%) discount or
103 compensation allowed by Section 27-69-31.

104 (3) Every wholesaler shall purchase stamps as provided in
105 this chapter, and affix the same to all packages of cigarettes
106 handled by him as * * * provided in this section.

107 (4) The * * * tax levied by this chapter is levied upon the
108 sale, use, gift, possession or consumption of tobacco within the
109 State of Mississippi, and the impact of the tax levied by this
110 chapter is hereby declared to be on the vendee, user, consumer or
111 possessor of tobacco in this state; and when the tax is paid by
112 any other person, such payment shall be considered as an advance
113 payment and shall thereafter be added to the price of the tobacco
114 and recovered from the ultimate consumer or user.

115 **SECTION 3.** Section 27-69-31, Mississippi Code of 1972, is
116 amended as follows:

117 27-69-31. Dealers subject to the provisions of this chapter
118 shall be allowed, as compensation for their services in affixing
119 the stamps herein required, a sum equal to eight percent (8%) of
120 the face value of the stamps purchased by them, except as
121 otherwise provided in Section 27-69-13(2); however, the commission
122 shall allow no discount on the purchase of stamps by wholesalers
123 of an aggregate amount of less than One Hundred Dollars (\$100.00),
124 and by retailers of an aggregate amount of less than Fifty Dollars
125 (\$50.00) in any one (1) order.

126 It is further provided that the commissioner may, in his
127 discretion, either reduce the compensation allowed, or disallow
128 any compensation for the affixing of stamps, for failure of such
129 dealer to comply with any provisions of the law or rules and
130 regulations promulgated by the commissioner.

131 **SECTION 4.** Section 27-69-75, Mississippi Code of 1972, is
132 amended as follows:

133 27-69-75. (1) All taxes levied by this chapter shall be
134 payable to the commissioner in cash, or by personal check,
135 cashier's check, bank exchange, post office money order or express
136 money order, and shall be deposited by the commissioner in the
137 State Treasury on the same day collected. No remittance other
138 than cash shall be a final discharge of liability for the tax
139 herein assessed and levied, unless and until it has been paid in
140 cash to the commissioner.

141 (2) Except as otherwise provided in subsection (3) of this
142 section, all tobacco taxes collected, including tobacco license
143 taxes, shall be deposited into the State Treasury to the credit of
144 the General Fund.

145 (3) The revenue derived from the excise taxes levied in
146 Section 27-69-13(1)(c) and (d) shall be deposited into the special
147 fund created in Section 1 of Senate Bill No. 2616, 2006 Regular
148 Session.

149 (4) Wholesalers who are entitled to purchase stamps at a
150 discount, as provided by Section 27-69-31, may have consigned to
151 them, without advance payment, such stamps, if and when such
152 wholesaler shall give to the commissioner a good and sufficient
153 bond executed by some surety company authorized to do business in
154 this state, conditioned to secure the payment for the stamps so
155 consigned. The commissioner shall require payment for such stamps
156 not later than thirty (30) days from the date the stamps were
157 consigned.

158 **SECTION 5.** Section 27-71-7, Mississippi Code of 1972, is
159 amended as follows:

160 27-71-7. (1) (a) There is hereby levied and assessed an
161 excise tax upon each case of alcoholic beverages sold by the
162 commission to be collected from each retail licensee at the time
163 of sale in accordance with the following schedule:

164 (i) Distilled spirits..... \$2.50 per gallon

165 (ii) Sparkling wine and

166 champagne..... \$1.00 per gallon

167 (iii) Other wines, including

168 native wines..... \$.35 per gallon

169 (b) In addition to the tax levied in paragraph (a) of
170 this subsection, there is levied and assessed an excise tax upon
171 each case of alcoholic beverages sold by the commission to be
172 collected from each retail licensee at the time of sale in an
173 amount equal to one percent (1%) of the tax levied in paragraph
174 (a) of this subsection.

175 (2) (a) In addition to the tax levied by subsection (1) of
176 this section, and in addition to any other markup collected, the
177 Alcoholic Beverage Control Division shall collect a markup of
178 three percent (3%) on all alcoholic beverages, as defined in
179 Section 67-1-5, Mississippi Code of 1972, which are sold by the
180 division. The proceeds of the markup shall be collected by the
181 division from each purchaser at the time of purchase.

182 * * *

183 (b) * * * The revenue derived from the * * * markup
184 provided for in paragraph (a) of this subsection shall be
185 deposited by the division in the State Treasury to the credit of
186 the "Alcoholism Treatment and Rehabilitation Fund," a special fund
187 which is hereby created in the State Treasury, and shall be used
188 by the Division of Alcohol and Drug Abuse of the State Department
189 of Mental Health and public or private centers or organizations
190 solely for funding of treatment and rehabilitation programs for
191 alcoholics and alcohol abusers which are sponsored by the division
192 or public or private centers or organizations in such amounts as
193 the Legislature may appropriate to the division for use by the
194 division or public or private centers or organizations for such
195 programs. Any tax revenue in the fund which is not encumbered at
196 the end of the fiscal year shall lapse to the General Fund. It is
197 the intent of the Legislature that the State Department of Mental
198 Health shall continue to seek funds from other sources and shall

199 use the funds appropriated for the purposes of this section and
200 Section 27-71-29 to match all federal funds which may be available
201 for alcoholism treatment and rehabilitation.

202 From and after July 1, 1987, the revenue derived from this
203 three percent (3%) markup shall be deposited by the division in
204 the State Treasury to the credit of the "Mental Health Programs
205 Fund," a special fund which is hereby created in the State
206 Treasury and shall be used by the State Department of Mental
207 Health for the service programs of the department. * * *

208 (3) In addition to the tax levied by subsection (1) of this
209 section, and in addition to the markup collected under subsection
210 (2) of this section and any other markup collected, the Alcoholic
211 Beverage Control Division shall collect a markup of one percent
212 (1%) on all alcoholic beverages, as defined in Section 67-1-5,
213 Mississippi Code of 1972, which are sold by the division. The
214 proceeds of the markup shall be collected by the division from
215 each purchaser at the time of purchase.

216 **SECTION 6.** Section 27-71-29, Mississippi Code of 1972, is
217 amended as follows:

218 27-71-29. (1) All taxes levied by this article shall be
219 paid to the State Tax Commission in cash or by personal check,
220 cashier's check, bank exchange, post office money order or express
221 money order and shall be deposited by the commission in the State
222 Treasury on the same day collected, but no remittances other than
223 cash shall be a final discharge of liability for the tax herein
224 imposed and levied unless and until it has been paid in cash to
225 the State Tax Commission.

226 (2) All taxes levied under Section 27-71-7(1)(a) and
227 received by the commission under this article shall be paid into
228 the General Fund. * * *

229 (3) The three percent (3%) levied under Section 27-71-7(2)
230 and received by the commission under this article shall be paid

231 into the special fund in the State Treasury designated as the
232 "Mental Health Programs Fund" as required by law.

233 (4) All taxes levied under Section 27-71-7(1)(b) and
234 received by the commission under this article shall be paid into
235 the special fund created in Section 1 of Senate Bill No. 2616,
236 2006 Regular Session.

237 (5) The one percent (1%) levied under Section 27-71-7(3) and
238 received by the commission under this article shall be paid into
239 the special fund created in Section 1 of Senate Bill No. 2616,
240 2006 Regular Session, as required by law.

241 (6) Any funds derived from the sale of alcoholic beverages
242 in excess of inventory requirements shall be paid not less often
243 than annually into the General Fund.

244 **SECTION 7.** Section 27-71-307, Mississippi Code of 1972, is
245 amended as follows:

246 27-71-307. (1) (a) In addition to the specific tax imposed
247 in Section 27-71-303, there is hereby imposed, levied, assessed
248 and shall be collected, as hereinafter provided, an excise or
249 privilege tax upon each person engaged or continuing in the
250 business of wholesaler or distributor of light wines or beer
251 equivalent to Forty-two and Sixty-eight One-hundredths Cents
252 (42.68¢) per gallon upon all light wines and beer acquired for
253 sale or distribution in this state. Such excise or privilege tax
254 is also imposed at the same rate upon each gallon of light wine or
255 beer manufactured by brewpubs, each of which shall accurately and
256 reliably measure the quantity of light wine and beer produced by
257 using a measuring device such as a meter or gauge glass or any
258 other suitable method approved by the commissioner. Such tax is
259 hereby imposed as an additional tax for the privilege of engaging
260 or continuing in business.

261 (b) In addition to the excise or privilege tax imposed
262 by paragraph (a) of this subsection, an excise or privilege tax
263 upon each person engaged or continuing in the business of

264 wholesaler or distributor of light wines or beer equivalent to
265 Forty-three One Hundredths Cent (.43¢) per gallon upon all light
266 wines and beer acquired for sale or distribution in this state.
267 Such excise or privilege tax is also imposed at the same rate upon
268 each gallon of light wine or beer manufactured by brewpubs, each
269 of which shall accurately and reliably measure the quantity of
270 light wine and beer produced by using a measuring device such as a
271 meter or gauge glass or any other suitable method approved by the
272 commissioner. Such tax is hereby imposed as an additional tax for
273 the privilege of engaging or continuing in business.

274 (c) Except as otherwise provided in paragraph (d) of
275 this subsection, the excise tax imposed in this section shall be
276 paid to the State Tax Commission monthly on or before the
277 fifteenth day of the month following the month in which the beer
278 or light wine was manufactured or received in this state. Monthly
279 report forms shall be furnished by the commissioner to the
280 wholesalers, distributors and brewpubs.

281 (d) * * * Persons operating a railroad dining car, club
282 car or other car in interstate commerce upon which light wines or
283 beer may be sold and who are licensed under the provisions of
284 Section 67-3-27 and any other law relating to the sale of such
285 beverages shall keep such records of the sales of such light wines
286 and beer in this state as the commissioner shall prescribe and
287 shall submit monthly reports of such sales to the commissioner
288 within fifteen (15) days after the end of each month on a form
289 prescribed therefor by the commissioner, and shall pay the tax due
290 under the provisions of this section at the time such reports are
291 filed.

292 No official crowns, lids, labels or stamps with the word
293 "MISSISSIPPI" or "MS" imprinted thereon or any other evidence of
294 tax payment is required by this section, or may be required under
295 rule or regulation promulgated by the commissioner, to be affixed
296 on or to any part of a beer, light wine or malt cooler bottle, can

297 or other light wine or malt cooler container. For purposes of
298 this section, malt cooler products shall be defined as a flavored
299 malt beverage made from a base of malt beverage and flavored with
300 fruit juices, aromatics and essences of other flavoring in
301 quantities and proportions such that the resulting product
302 possesses a character and flavor distinctive from the base malt
303 beverage and distinguishable from other malt beverages.

304 (2) A licensed wholesaler or distributor of beer or light
305 wine may not import beer or light wine from any source other than
306 a brewer or importer authorized by the commissioner to sell such
307 beer or light wine in Mississippi. Any person who violates the
308 provisions of this subsection, upon conviction thereof, shall be
309 punished by a fine of not more than One Thousand Dollars
310 (\$1,000.00) or by imprisonment in the county jail for not more
311 than six (6) months, or by both such fine and imprisonment, in the
312 discretion of the court and shall be subject to license forfeiture
313 following an appropriate hearing before the State Tax Commission.

314 (3) The wholesaler or distributor shall be allowed credit
315 for tax paid on beer or light wine which is no longer marketable
316 and which is destroyed by same when such destruction is witnessed
317 by an agent of the commissioner and when the amount of the excise
318 tax exceeds One Hundred Dollars (\$100.00). No other loss will be
319 allowed.

320 A brewpub shall be allowed credit for light wine or beer
321 which has passed through the meter, gauge glass or other approved
322 measuring device and which has been soured or damaged. The
323 brewpub shall record the removal of sour or damaged light wine or
324 beer and may take credit after the destruction is witnessed by an
325 agent of the commissioner and when the amount of excise tax
326 exceeds Twenty-five Dollars (\$25.00). No other loss shall be
327 allowed.

328 (4) All manufacturers, brewers and importers of beer or
329 light wine shall file monthly reports as prescribed by the

330 commissioner listing sales to each wholesaler or distributor by
331 date, invoice number, quantity and container size, and any other
332 information deemed necessary.

333 (5) All administrative provisions of the Mississippi Sales
334 Tax Law, including those which fix damages, penalties and interest
335 for nonpayment of taxes and for noncompliance with the provisions
336 of such chapter, and all other requirements and duties imposed
337 upon taxpayers, shall apply to all persons liable for taxes under
338 the provisions of this chapter, and the commissioner shall
339 exercise all the power and authority and perform all the duties
340 with respect to taxpayers under this chapter as are provided in
341 the sales tax law except where there is conflict, then the
342 provisions of this chapter shall control.

343 **SECTION 8.** Section 27-71-337, Mississippi Code of 1972, is
344 amended as follows:

345 27-71-337. (1) All taxes levied by this article and
346 required to be paid to the commissioner shall be payable to the
347 commissioner in cash or by personal check, cashier's check, bank
348 exchange, post office money order or express money order and,
349 except as otherwise provided in subsection (2) of this section,
350 shall be deposited by the commissioner into the State Treasury on
351 the same day collected, provided that no remittances other than
352 cash shall be a final discharge of liability for the tax herein
353 imposed and levied unless and until it has been paid in cash to
354 the commissioner.

355 (2) The taxes levied by Section 27-7-307(1)(b) shall be paid
356 into the special fund created in Section 1 of Senate Bill No.
357 2616, 2006 Regular Session.

358 **SECTION 9.** Section 75-76-129, Mississippi Code of 1972, is
359 amended as follows:

360 **[Through June 30, 2022, this section shall read as follows:]**

361 75-76-129. (1) On or before the last day of each month all
362 taxes, fees, interest, penalties, damages, fines or other monies

363 collected by the State Tax Commission during that month under the
364 provisions of this chapter, with the exception of (a) the local
365 government fees imposed under Section 75-76-195, * * * (b) an
366 amount equal to Three Million Dollars (\$3,000,000.00) of the
367 revenue collected pursuant to the fee imposed under Section
368 75-76-177(1)(c), and (c) the revenue collected pursuant to the fee
369 imposed under Section 75-76-177(2) shall be paid by the State Tax
370 Commission to the State Treasurer to be deposited in the State
371 General Fund.

372 (2) The local government fees shall be distributed by the
373 State Tax Commission pursuant to Section 75-76-197.

374 (3) An amount equal to Three Million Dollars (\$3,000,000.00)
375 of the revenue collected during that month pursuant to the fee
376 imposed under Section 75-76-177(1)(c) shall be deposited by the
377 State Tax Commission into the Bond Sinking Fund created in Section
378 65-39-3.

379 (4) The revenue collected during that month pursuant to the
380 fee imposed under Section 75-76-177(2) shall be paid into the
381 special fund created in Section 1 of Senate Bill No. 2616, 2006
382 Regular Session.

383 **[From and after July 1, 2022, this section shall read as**
384 **follows:]**

385 75-76-129. (1) On or before the last day of each month, all
386 taxes, fees, interest, penalties, damages, fines or other monies
387 collected by the State Tax Commission during that month under the
388 provisions of this chapter, with the exception of the local
389 government fees imposed under Section 75-76-195 and the fee
390 imposed under Section 75-76-177(2), shall be paid by the State Tax
391 Commission to the State Treasurer to be deposited in the State
392 General Fund.

393 (2) The local government fees shall be distributed by the
394 State Tax Commission pursuant to Section 75-76-197.

395 (3) The revenue collected during that month pursuant to the
396 fee imposed under Section 75-76-177(2) shall be paid into the
397 special fund created in Section 1 of Senate Bill No. 2616, 2006
398 Regular Session.

399 **SECTION 10.** Section 75-76-177, Mississippi Code of 1972, is
400 amended as follows:

401 75-76-177. (1) From and after August 1, 1990, there is
402 hereby imposed and levied on each gaming licensee a license fee
403 based upon all the gross revenue of the licensee as follows:

404 (a) Four percent (4%) of all the gross revenue of the
405 licensee which does not exceed Fifty Thousand Dollars (\$50,000.00)
406 per calendar month;

407 (b) Six percent (6%) of all the gross revenue of the
408 licensee which exceeds Fifty Thousand Dollars (\$50,000.00) per
409 calendar month and does not exceed One Hundred Thirty-four
410 Thousand Dollars (\$134,000.00) per calendar month; and

411 (c) Eight percent (8%) of all the gross revenue of the
412 licensee which exceeds One Hundred Thirty-four Thousand Dollars
413 (\$134,000.00) per calendar month.

414 (2) In addition to the license fee imposed by subsection (1)
415 of this section, there is hereby imposed and levied on each gaming
416 licensee a license fee equal to one percent (1%) of all the gross
417 revenue of the licensee.

418 (3) All revenue received from any game or gaming device
419 which is leased for operation on the premises of the
420 licensee-owner to a person other than the owner thereof or which
421 is located in an area or space on such premises which is leased by
422 the licensee-owner to any such person must be attributed to the
423 owner for the purposes of this section and be counted as part of
424 the gross revenue of the owner. The lessee is liable to the owner
425 for his proportionate share of such license fees.

426 (4) If the amount of license fees required to be reported
427 and paid pursuant to this section is later determined to be

428 greater or less than the amount actually reported and paid by the
429 licensee, the Chairman of the State Tax Commission shall:

430 (a) Assess and collect the additional license fees
431 determined to be due, with interest thereon until paid; or

432 (b) Refund any overpayment, with interest thereon, to
433 the licensee.

434 Interest must be computed, until paid, at the rate of one
435 percent (1%) per month from the first day of the first month
436 following either the due date of the additional license fees or
437 the date of overpayment.

438 (5) Failure to pay the fees provided for in this section
439 when they are due for continuation of a license shall be deemed a
440 surrender of the license.

441 **SECTION 11.** This act shall take effect and be in force from
442 and after July 1, 2006.