

By: Representative Snowden

To: Ways and Means

## HOUSE BILL NO. 1419

1 AN ACT TO AMEND SECTIONS 67-3-69, 67-1-81, 97-32-5 AND  
2 97-32-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT SHALL BE  
3 UNLAWFUL FOR THE HOLDER OF ANY LICENSE OR PERMIT FOR THE SALE OF  
4 BEER, LIGHT WINE, ALCOHOLIC BEVERAGES OR TOBACCO PRODUCTS TO SELL  
5 ANY SUCH PRODUCT TO ANYONE, REGARDLESS OF AGE, WITHOUT FIRST  
6 REQUIRING SUCH PERSON TO PRESENT A DOCUMENT DISPLAYING THE AGE AND  
7 A PHOTOGRAPH OF SUCH PERSON; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 67-3-69, Mississippi Code of 1972, is  
10 amended as follows:

11 67-3-69. (1) It shall be unlawful for the holder of a  
12 permit, or an employee of the holder of a permit, to sell any beer  
13 or wine to anyone, regardless of age, without first requiring such  
14 person to display an apparently valid Mississippi driver's license  
15 or some other apparently valid identification document displaying  
16 the age and a photograph of such person. Any person violating the  
17 provisions of this subsection shall be punished, upon conviction,  
18 by a fine of not more than One Hundred Dollars (\$100.00).

19 (2) Except as to Sections 67-3-17, 67-3-23, 67-3-27, 67-3-55  
20 and 67-3-57, any violation of any provision of this chapter or of  
21 any rule or regulation of the commissioner, shall be a misdemeanor  
22 and, where the punishment therefor is not elsewhere prescribed in  
23 this section, shall be punished by a fine of not more than Five  
24 Hundred Dollars (\$500.00) or imprisonment for not more than six  
25 (6) months, or both, in the discretion of the court. If any  
26 person so convicted shall be the holder of any permit or license  
27 issued by the commissioner under authority of this chapter, the  
28 permit or license shall from and after the date of such conviction  
29 be void and the holder thereof shall not thereafter, for a period

30 of one (1) year from the date of such conviction, be entitled to  
31 any permit or license for any purpose authorized by this chapter.  
32 Upon conviction of the holder of any permit or license, the  
33 appropriate law enforcement officer shall seize the permit or  
34 license and transmit it to the commissioner.

35       (3) (a) Any person who shall violate any provision of  
36 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a  
37 misdemeanor, and upon conviction thereof shall be punished by a  
38 fine of not more than Five Hundred Dollars (\$500.00) or by  
39 imprisonment in the county jail for not more than six (6) months,  
40 or by both such fine and imprisonment, in the discretion of the  
41 court.

42       (b) Any person who shall violate any provision of  
43 Section 67-3-57 shall be guilty of a misdemeanor, and upon  
44 conviction thereof, shall be punished by a fine of not more than  
45 One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
46 jail for not more than one (1) year, or by both, in the discretion  
47 of the court. Any person convicted of violating any provision of  
48 the sections referred to in this subsection shall forfeit his  
49 permit, and shall not thereafter be permitted to engage in any  
50 business taxable under the provisions of Sections 27-71-301  
51 through 27-71-347.

52       (4) It shall be unlawful for the holder of a permit, or an  
53 employee of the holder of a permit, to sell any beer or wine to  
54 anyone, regardless of age, without first requiring such person to  
55 display an apparently valid Mississippi driver's license or some  
56 other apparently valid identification document displaying the age  
57 and a photograph of such person. Any person violating the  
58 provisions of this subsection shall be punished, upon conviction,  
59 by a fine of not more than One Hundred Dollars (\$100.00).

60       (5) If the holder of a permit, or the employee of the holder  
61 of a permit, shall be convicted of selling any beer or wine to  
62 anyone who is visibly intoxicated from the licensed premises or to

63 any person under the age of twenty-one (21) years from the  
64 licensed premises in violation of Section 67-3-53(b), then, in  
65 addition to any other penalty provided for by law, the  
66 commissioner may impose the following penalties against the holder  
67 of a permit:

68 (a) For the first offense on the licensed premises, by  
69 a fine of not less than Five Hundred Dollars (\$500.00) nor more  
70 than One Thousand Dollars (\$1,000.00) and/or suspension of the  
71 permit for not more than three (3) months.

72 (b) For a second offense occurring on the licensed  
73 premises within twelve (12) months of the first offense, by a fine  
74 of not less than Five Hundred Dollars (\$500.00) nor more than Two  
75 Thousand Dollars (\$2,000.00) and/or suspension of the permit for  
76 not more than six (6) months.

77 (c) For a third offense occurring on the licensed  
78 premises within twelve (12) months of the first, by a fine of not  
79 less than Two Thousand Dollars (\$2,000.00) nor more than Five  
80 Thousand Dollars (\$5,000.00) and/or suspension or revocation of  
81 the permit to sell beer or light wine.

82 (d) For a fourth or subsequent offense occurring on the  
83 licensed premises within twelve (12) months of the first, by a  
84 fine of not less than Two Thousand Dollars (\$2,000.00) nor more  
85 than Five Thousand Dollars (\$5,000.00) and/or suspension or  
86 revocation of the permit to sell beer or light wine.

87 (6) A person who sells any beer or wine to a person under  
88 the age of twenty-one (21) years shall not be guilty of a  
89 violation of Section 67-3-53(b) if the person under the age of  
90 twenty-one (21) years represents himself to be twenty-one (21)  
91 years of age or older by displaying an apparently valid  
92 Mississippi driver's license containing a physical description  
93 consistent with his appearance or by displaying some other  
94 apparently valid identification document containing a picture and

95 physical description consistent with his appearance for the  
96 purpose of inducing the person to sell beer or wine to him.

97 (7) If the holder of a permit to operate a brewpub is  
98 convicted of violating the provisions of Section 67-3-22(3), then,  
99 in addition to any other provision provided for by law, the holder  
100 of the permit shall be punished as follows:

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

104 (b) For a second offense occurring within twelve (12)  
105 months of the first offense, the holder of a permit to operate a  
106 brewpub may be fined an amount not to exceed One Thousand Dollars  
107 (\$1,000.00).

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

113 **SECTION 2.** Section 67-1-81, Mississippi Code of 1972, is  
114 amended as follows:

115 67-1-81. (1) It shall be unlawful for the holder of a  
116 permit, or an employee of the holder of a permit, to sell any  
117 alcoholic beverage to anyone, regardless of age, without first  
118 requiring such person to display an apparently valid Mississippi  
119 driver's license or some other apparently valid identification  
120 document displaying the age and a photograph of such person. Any  
121 person violating the provisions of this subsection shall be  
122 punished, upon conviction, by a fine of not more than One Hundred  
123 Dollars (\$100.00).

124 (2) Any permittee or other person who shall sell, furnish,  
125 dispose of, give, or cause to be sold, furnished, disposed of, or  
126 given, any alcoholic beverage to any person under the age of  
127 twenty-one (21) years shall be guilty of a misdemeanor and shall

128 be punished by a fine of not less than Five Hundred Dollars  
129 (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for a  
130 first offense. For a second or subsequent offense, such permittee  
131 or other person shall be punished by a fine of not less than One  
132 Thousand Dollars (\$1,000.00) nor more than Two Thousand Dollars  
133 (\$2,000.00), or by imprisonment for not more than one (1) year, or  
134 by both such fine and imprisonment in the discretion of the court.  
135 Upon conviction of a second offense under the provisions of this  
136 section the permit of any permittee so convicted shall be  
137 automatically and permanently revoked.

138       (3) Any person under the age of twenty-one (21) years who  
139 purchases, receives, or has in his or her possession in any public  
140 place, any alcoholic beverages, shall be guilty of a misdemeanor  
141 and shall be punished by a fine of not less than Two Hundred  
142 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).  
143 Provided, that clearing or busing tables that have glasses or  
144 other containers that contain or did contain alcoholic beverages,  
145 or stocking, bagging or otherwise handling purchases of alcoholic  
146 beverages shall not be deemed possession of alcoholic beverages  
147 for the purposes of this section. Provided further, that a person  
148 who is at least eighteen (18) years of age but under the age of  
149 twenty-one (21) years who waits on tables by taking orders for or  
150 delivering orders of alcoholic beverages shall not be deemed to  
151 unlawfully possess or furnish alcoholic beverages if in the scope  
152 of his employment by the holder of an on-premises retailer's  
153 permit. This exception shall not authorize a person under the age  
154 of twenty-one (21) to tend bar or act in the capacity of  
155 bartender. Any person under the age of twenty-one (21) who  
156 knowingly makes a false statement to the effect that he or she is  
157 twenty-one (21) years old or older to any person engaged in the  
158 sale of alcoholic beverages for the purpose of obtaining the same  
159 shall be guilty of a misdemeanor and shall be punished by a fine  
160 of not less than Two Hundred Dollars (\$200.00) nor more than Five

161 Hundred Dollars (\$500.00), and a sentence to not more than thirty  
162 (30) days' community service.

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

167 (5) If a person under the age of twenty-one (21) years is  
168 convicted or enters a plea of guilty of purchasing, receiving or  
169 having in his or her possession in any public place any alcoholic  
170 beverages in violation of subsection (2) of this section, the  
171 trial judge, in lieu of the penalties otherwise provided under  
172 subsection (2) of this section, shall suspend the minor's driver's  
173 license by taking and keeping it in the custody of the court for a  
174 period of time not to exceed ninety (90) days. The judge so  
175 ordering the suspension shall enter upon his docket "DEFENDANT'S  
176 DRIVER'S LICENSE SUSPENDED FOR \_\_\_\_ DAYS IN LIEU OF CONVICTION"  
177 and such action by the trial judge shall not constitute a  
178 conviction. During the period that the minor's driver's license  
179 is suspended, the trial judge shall suspend the imposition of any  
180 fines or penalties that may be imposed under subsection (2) of  
181 this section and may place the minor on probation subject to such  
182 conditions as the judge deems appropriate. If the minor violates  
183 any of the conditions of probation, then the trial judge shall  
184 return the driver's license to the minor and impose the fines,  
185 penalties or both, that he would have otherwise imposed, and such  
186 action shall constitute a conviction.

187 **SECTION 3.** Section 97-32-5, Mississippi Code of 1972, is  
188 amended as follows:

189 97-32-5. It shall be unlawful for any person or retailer to  
190 sell, barter, deliver or give tobacco products to anyone,  
191 regardless of age, without first requesting and examining a  
192 government-issued photographic identification from such person  
193 establishing his age.

194           It shall be unlawful for any person, or retailer, to sell,  
195 barter, deliver or give tobacco products to any individual under  
196 eighteen (18) years of age unless the individual under eighteen  
197 (18) years of age holds a retailer's license to sell tobacco under  
198 Section 27-69-1 et seq., Mississippi Code of 1972.

199           It shall be an absolute affirmative defense that the person  
200 selling, bartering, delivering or giving tobacco products over the  
201 counter in a retail establishment to an individual under eighteen  
202 (18) years of age in violation of this article had requested and  
203 examined a government-issued photographic identification from such  
204 person establishing his age as at least eighteen (18) years prior  
205 to selling such person a tobacco product. \* \* \*

206           It shall be an absolute affirmative defense that the person  
207 or entity giving tobacco products through the mail to an  
208 individual under eighteen (18) years of age in violation of this  
209 article had requested and received documentary or written evidence  
210 from such person purportedly establishing his age to be at least  
211 eighteen (18) years of age.

212           Any person who violates this section shall be liable as  
213 follows: For a first conviction, a fine of Fifty Dollars  
214 (\$50.00); for a second conviction, a fine of Seventy-five Dollars  
215 (\$75.00); and for all subsequent convictions, a fine of One  
216 Hundred Fifty Dollars (\$150.00) shall be imposed.

217           Any person found in violation of this section shall be issued  
218 a citation and the holder of the retailer permit shall be sent  
219 notification of this citation by registered mail by the law  
220 enforcement agency issuing the citation. Notification shall  
221 include the opportunity for hearing before the appropriate court.  
222 For a first conviction, the retailer shall be sent a warning  
223 letter informing him of the retailer's responsibility in the  
224 selling of tobacco products. For a second conviction, the  
225 retailer, or retailer's designee, shall be required to enroll in  
226 and complete a "Retailer Tobacco Education Program."

227 For a third or subsequent violation of this section by any  
228 retailer, within one (1) year of the two (2) prior violations, any  
229 retailer's permit issued pursuant to Section 27-69-1 et seq.,  
230 Mississippi Code of 1972, may be revoked or suspended for a period  
231 of at least one (1) year after notice and opportunity for hearing.  
232 If said permit is revoked by the Tax Commission, the retailer may  
233 not reapply for a permit to sell tobacco for a period of six (6)  
234 months. For the purposes of this section, "subsequent violations"  
235 are those committed at the same place of business.

236 It is the responsibility of all law enforcement officers and  
237 law enforcement agencies of this state to ensure that the  
238 provisions of this article are enforced.

239 It shall not be considered a violation of this section on the  
240 part of any law enforcement officer or person under eighteen (18)  
241 years of age for any law enforcement officer of this state to use  
242 persons under eighteen (18) years of age to purchase or attempt to  
243 purchase tobacco products for the purpose of monitoring compliance  
244 with this section, as long as those persons are supervised by duly  
245 authorized law enforcement agency officials.

246 Any law enforcement agency conducting enforcement efforts  
247 undertaken pursuant to this article shall prepare a report as  
248 prescribed by the Attorney General which includes the number of  
249 unannounced inspections conducted by the agency, a summary of  
250 enforcement actions taken pursuant to this article, the name and  
251 permit number of the retailer pursuant to Section 27-69-1 et seq.,  
252 Mississippi Code of 1972, and final judicial disposition on all  
253 enforcement actions. Reports shall be forwarded to the Office of  
254 the Attorney General within twenty (20) working days of the final  
255 judicial disposition.

256 On notification from local law enforcement that a retailer  
257 has violated this article so as to warrant a revocation of the  
258 retailer's permit, the Attorney General shall notify in writing  
259 the State Tax Commission within twenty (20) working days.



260 In accordance with the procedures of Section 27-69-9,  
261 Mississippi Code of 1972, the State Tax Commission shall initiate  
262 revocation procedures of the retailer's permit. The Office of the  
263 Attorney General shall provide legal assistance in revocation  
264 procedures when requested by the Tax Commission.

265 **SECTION 4.** Section 97-32-7, Mississippi Code of 1972, is  
266 amended as follows:

267 97-32-7. (1) Every person engaged in the business of  
268 selling tobacco products at retail shall notify each individual  
269 employed by that person as a retail sales clerk that state law:

270 (a) Prohibits the sale or distribution of tobacco  
271 products, including samples, to any person under eighteen (18)  
272 years of age and the purchase or receipt of tobacco products by  
273 any person under eighteen (18) years of age; and

274 (b) Requires that proof of age be demanded from a  
275 prospective purchaser or recipient, regardless of age.

276 Every person employed by a person engaged in the business of  
277 selling tobacco products at retail shall sign an agreement with  
278 his employer in substantially the following or similar form:

279 "I understand that state and federal law prohibit the sale or  
280 distribution of tobacco products to persons under the age of  
281 eighteen (18) years and out-of-package sales, and requires that  
282 proof of age be demanded from a prospective purchaser or  
283 recipient, regardless of age. I promise, as a condition of my  
284 employment, to observe this law."

285 (2) Any person violating the provisions of this section  
286 shall be penalized not less than Fifty Dollars (\$50.00) nor more  
287 than One Hundred Dollars (\$100.00).

288 (3) No retailer who instructs his employee as provided in  
289 this section shall be liable for any violations committed by such  
290 employees.

291 **SECTION 5.** This act shall take effect and be in force from  
292 and after July 1, 2007.