

By: Senator(s) Wilemon

To: Finance

SENATE BILL NO. 2194

1 AN ACT TO AMEND SECTION 67-1-37, MISSISSIPPI CODE OF 1972, TO
 2 MAKE IT CLEAR THAT THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF THE
 3 STATE TAX COMMISSION SHALL NOT ALLOW THE SALE OR CONSUMPTION OF
 4 ALCOHOLIC BEVERAGES ON THE CAMPUS OF ANY COMMUNITY COLLEGE, JUNIOR
 5 COLLEGE OR UNIVERSITY; TO MAKE IT CLEAR THAT THE ALCOHOLIC
 6 BEVERAGE CONTROL DIVISION OF THE STATE TAX COMMISSION SHALL NOT
 7 ALLOW THE SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES AT ANY PUBLIC
 8 ATHLETIC EVENT AT ANY COMMUNITY COLLEGE, JUNIOR COLLEGE OR
 9 UNIVERSITY; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 67-1-37, Mississippi Code of 1972, is
 12 amended as follows:

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

14 67-1-37. The State Tax Commission, under its duties and
 15 powers with respect to the Alcoholic Beverage Control Division
 16 therein, shall have the following powers, functions and duties:

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

21 (b) To revoke, suspend or cancel, for violation of or
 22 noncompliance with the provisions of this chapter, or the law
 23 governing the production and sale of native wines, or any lawful
 24 rules and regulations of the commission issued hereunder, or for
 25 other sufficient cause, any permit issued by it under the
 26 provisions of this chapter; however, no such permit shall be
 27 revoked, suspended or cancelled except after a hearing of which
 28 the permit holder shall have been given reasonable notice and an
 29 opportunity to be heard. The board shall be authorized to suspend
 30 the permit of any permit holder for being out of compliance with

31 an order for support, as defined in Section 93-11-153. The
32 procedure for suspension of a permit for being out of compliance
33 with an order for support, and the procedure for the reissuance or
34 reinstatement of a permit suspended for that purpose, and the
35 payment of any fees for the reissuance or reinstatement of a
36 permit suspended for that purpose, shall be governed by Section
37 93-11-157 or Section 93-11-163, as the case may be. If there is
38 any conflict between any provision of Section 93-11-157 or Section
39 93-11-163 and any provision of this chapter, the provisions of
40 Section 93-11-157 or Section 93-11-163, as the case may be, shall
41 control.

42 (c) To prescribe forms of permits and applications for
43 permits and of all reports which it deems necessary in
44 administering this chapter.

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

49 (e) To issue rules regulating the advertising of
50 alcoholic beverages in the state in any class of media and
51 permitting advertising of the retail price of alcoholic beverages.

52 (f) To issue reasonable rules and regulations, not
53 inconsistent with the federal laws or regulations, requiring
54 informative labeling of all alcoholic beverages offered for sale
55 within this state and providing for the standards of fill and
56 shapes of retail containers of alcoholic beverages; however, such
57 containers shall not contain less than fifty (50) milliliters by
58 liquid measure.

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

64 no such permit shall be issued. The Alcoholic Beverage Control
65 Division shall not allow the sale or consumption of alcoholic
66 beverages in or on the campus of any public school, community or
67 junior college, or university and no alcoholic beverage shall be
68 for sale or consumed at any public athletic event at any public
69 school, community or junior college, or university.

70 (h) To adopt and promulgate, repeal and amend, such
71 rules, regulations, standards, requirements and orders, not
72 inconsistent with this chapter or any law of this state or of the
73 United States, as it deems necessary to control the manufacture,
74 importation, transportation, distribution and sale of alcoholic
75 liquor, whether intended for beverage or nonbeverage use in a
76 manner not inconsistent with the provisions of this chapter or any
77 other statute, including the native wine laws.

78 (i) To call upon other administrative departments of
79 the state, county and municipal governments, county and city
80 police departments and upon prosecuting officers for such
81 information and assistance as it may deem necessary in the
82 performance of its duties.

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

89 (k) To inspect, or cause to be inspected, any premises
90 where alcoholic liquors intended for sale are manufactured,
91 stored, distributed or sold, and to examine or cause to be
92 examined all books and records pertaining to the business
93 conducted therein.

94 (l) In the conduct of any hearing authorized to be held
95 by the commission, to hear testimony and take proof material for
96 its information in the discharge of its duties under this chapter;

97 to issue subpoenas, which shall be effective in any part of this
98 state, requiring the attendance of witnesses and the production of
99 books and records; to administer or cause to be administered
100 oaths; and to examine or cause to be examined any witness under
101 oath. Any court of record, or any judge thereof, may by order
102 duly entered require the attendance of witnesses and the
103 production of relevant books subpoenaed by the commission, and
104 such court or judge may compel obedience to its or his order by
105 proceedings for contempt.

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

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

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

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

126 (q) To enforce the provisions made unlawful by Sections
127 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

130 67-1-37. The State Tax Commission, under its duties and
131 powers with respect to the Alcoholic Beverage Control Division
132 therein, shall have the following powers, functions and duties:

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

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

157 (c) To prescribe forms of permits and applications for
158 permits and of all reports which it deems necessary in
159 administering this chapter.

160 (d) To fix standards, not in conflict with those
161 prescribed by any law of this state or of the United States, to

162 secure the use of proper ingredients and methods of manufacture of
163 alcoholic beverages.

164 (e) To issue rules regulating the advertising of
165 alcoholic beverages in the state in any class of media and
166 permitting advertising of the retail price of alcoholic beverages.

167 (f) To issue reasonable rules and regulations, not
168 inconsistent with the federal laws or regulations, requiring
169 informative labeling of all alcoholic beverages offered for sale
170 within this state and providing for the standards of fill and
171 shapes of retail containers of alcoholic beverages; however, such
172 containers shall not contain less than fifty (50) milliliters by
173 liquid measure.

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

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

193 (i) To call upon other administrative departments of
194 the state, county and municipal governments, county and city

195 police departments and upon prosecuting officers for such
196 information and assistance as it may deem necessary in the
197 performance of its duties.

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

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

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

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

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

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

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

241 **SECTION 2.** This act shall take effect and be in force from
242 and after its passage.