

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2370
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 67-1-25, MISSISSIPPI CODE OF 1972, TO
 2 REMOVE THE PROVISION THAT REQUIRES THAT PERSONS APPOINTED
 3 DIRECTOR, AGENT OR INSPECTOR FOR THE STATE TAX COMMISSION UNDER
 4 THE LOCAL OPTION ALCOHOLIC BEVERAGES CONTROL LAW MUST HAVE RESIDED
 5 WITHIN THE STATE OF MISSISSIPPI FOR THE FIVE SUCCESSIVE YEARS
 6 PRECEDING THE DATE OF THEIR APPOINTMENT; TO AMEND SECTION 67-3-19,
 7 MISSISSIPPI CODE OF 1972, TO REMOVE THE PROVISION THAT REQUIRES A
 8 MANAGER OR EMPLOYEE OF A LICENSED PREMISES UNDER THE LIGHT WINE
 9 AND BEER LAWS TO BE A RESIDENT OF MISSISSIPPI IF HE IS ALSO AN
 10 OFFICER, DIRECTOR OR SHAREHOLDER IN A CORPORATION THAT IS THE
 11 HOLDER OF THE PERMIT FOR THE LICENSED PREMISES; TO AMEND SECTIONS
 12 67-1-37, 67-3-31, 67-3-37 AND 67-3-74, MISSISSIPPI CODE OF 1972,
 13 TO EXTEND UNTIL JULY 1, 2011, THE REPEAL DATE ON THE PROVISIONS
 14 THAT ALLOW THE ENFORCEMENT AGENTS OF THE ALCOHOLIC BEVERAGE
 15 CONTROL DIVISION OF THE STATE TAX COMMISSION TO ENFORCE CERTAIN
 16 PROVISIONS OF THE LIGHT WINE AND BEER LAWS AND TO AUTHORIZE SUCH
 17 AGENTS TO ENFORCE PROVISIONS OF THE LIGHT WINE AND BEER LAW THAT
 18 PROHIBIT RETAILERS FROM POSSESSING OR SELLING LIGHT WINE OR BEER
 19 BEFORE THEY HAVE SECURED A PERMIT OR DURING THE TIME THEIR PERMIT
 20 IS REVOKED OR SUSPENDED; TO FURTHER AMEND SECTION 67-1-37,
 21 MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROVISIONS RELATING TO
 22 THE SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE CAMPUS OF
 23 PUBLIC SCHOOLS, COMMUNITY OR JUNIOR COLLEGES, COLLEGES OR
 24 UNIVERSITIES, AND THE PROHIBITION AGAINST THE SALE OR CONSUMPTION
 25 OF ALCOHOLIC BEVERAGES AT ANY PUBLIC ATHLETIC EVENT AT PUBLIC
 26 SCHOOLS, COMMUNITY OR JUNIOR COLLEGES, COLLEGES OR UNIVERSITIES;
 27 TO AMEND SECTIONS 27-71-301 AND 67-1-51, MISSISSIPPI CODE OF 1972,
 28 TO AUTHORIZE THE SALE OF ALCOHOLIC BEVERAGES AND LIGHT WINE AND
 29 BEER FROM MOBILE CARTS ON A GOLF COURSE IF THE GOLF COURSE IS THE
 30 HOLDER OF AN ON-PREMISES RETAILER'S PERMIT; AND FOR RELATED
 31 PURPOSES.

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

33 **SECTION 1.** Section 67-1-25, Mississippi Code of 1972, is
 34 amended as follows:

35 67-1-25. No person shall be appointed director, agent or
 36 inspector for the commission under this chapter who is not a
 37 citizen of the United States * * *. No director, agent, inspector
 38 or other employee shall be appointed under this chapter who has
 39 been convicted of any violation of any federal or state law
 40 concerning the manufacture, sale or possession of alcoholic liquor
 41 prior or subsequent to July 1, 1966, or who has paid a fine or

42 penalty in settlement of any prosecution against him for any
43 violation of such laws or shall have forfeited his bond to appear
44 in court to answer charges for any such violation, nor shall any
45 person be so appointed who has been convicted of a felony in any
46 state or federal court. No person appointed or employed by the
47 commission under this chapter may, directly or indirectly,
48 individually or as a member of a partnership or limited liability
49 company, or as a shareholder of a corporation, have any interest
50 whatsoever in the manufacture, sale or distribution of alcoholic
51 liquor, or receive any compensation or profit therefrom, or have
52 any interest whatsoever in the purchases or sales made by the
53 persons authorized by this chapter to purchase or to sell
54 alcoholic liquor.

55 This section shall not prevent any person appointed or
56 employed by the commission from purchasing and keeping in his
57 possession for the use of himself or members of his family or
58 guests any alcoholic liquor which may be purchased or kept by any
59 other person by virtue of this chapter.

60 **SECTION 2.** Section 67-3-19, Mississippi Code of 1972, is
61 amended as follows:

62 67-3-19. Where application is made for a permit to engage in
63 the business of a retailer of light wine or beer, the applicant
64 shall show in his application that he possesses the following
65 qualifications:

66 (a) Applicant must be a person at least twenty-one (21)
67 years of age, of good moral character and a resident of the State
68 of Mississippi.

69 (b) Applicant shall not have been convicted of a
70 felony, or of pandering or of keeping or maintaining a house of
71 prostitution, or have been convicted within two (2) years of the
72 date of his application of any violation of the laws of this state
73 or the laws of the United States relating to alcoholic liquor.

74 (c) Applicant shall not have had revoked, except for a
75 violation of Section 67-3-52, within two (2) years next preceding
76 his application, any license or permit issued to him pursuant to
77 the laws of this state, or any other state, to sell alcoholic
78 liquor of any kind.

79 (d) Applicant shall be the owner of the premises for
80 which the permit is sought or the holder of an existing lease
81 thereon.

82 (e) Applicant shall not be residentially domiciled with
83 any person whose permit has been revoked for cause, except for a
84 violation of Section 67-3-52, within two (2) years next preceding
85 the date of the present application for a permit.

86 (f) The applicant has not had any license or permit to
87 sell beer or light wine at retail revoked, within five (5) years
88 next preceding his application, due to a violation of Section
89 67-3-52.

90 (g) Applicant shall not employ any person whose permit
91 has been revoked when such person owned or operated the business
92 on the premises for which a permit is sought or allow such person
93 to have any financial interest in the business of the applicant,
94 until such person is qualified to obtain a permit in his own name.

95 (h) The applicant is not indebted to the State of
96 Mississippi for any taxes.

97 (i) If applicant is a partnership, all members of the
98 partnership must be qualified to obtain a permit. Each member of
99 the partnership must be a resident of the State of Mississippi.

100 (j) If applicant is a corporation, all officers and
101 directors thereof, and any stockholder owning more than five
102 percent (5%) of the stock of such corporation, and the person or
103 persons who shall conduct and manage the licensed premises for the
104 corporation shall possess all the qualifications required herein
105 for any individual permittee. However, the requirements as to

106 residence shall not apply to officers, directors and stockholders
107 of such corporation * * *.

108 Any misstatement or concealment of fact in an application
109 shall be ground for denial of the application or for revocation of
110 the permit issued thereon.

111 The commissioner may refuse to issue a permit to an applicant
112 for a place that is frequented by known criminals, prostitutes, or
113 other law violators or troublemakers who disturb the peace and
114 quietude of the community and frequently require the assistance of
115 peace officers to apprehend such law violators or to restore
116 order. The burden of proof of establishing the foregoing shall
117 rest upon the commissioner.

118 **SECTION 3.** Section 67-1-37, Mississippi Code of 1972, is
119 amended as follows:

120 **[Until July 1, 2011, this section will read as follows:]**

121 67-1-37. (1) The State Tax Commission, under its duties and
122 powers with respect to the Alcoholic Beverage Control Division
123 therein, shall have the following powers, functions and duties:

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

128 (b) To revoke, suspend or cancel, for violation of or
129 noncompliance with the provisions of this chapter, or the law
130 governing the production and sale of native wines, or any lawful
131 rules and regulations of the commission issued hereunder, or for
132 other sufficient cause, any permit issued by it under the
133 provisions of this chapter; however, no such permit shall be
134 revoked, suspended or cancelled except after a hearing of which
135 the permit holder shall have been given reasonable notice and an
136 opportunity to be heard. The board shall be authorized to suspend
137 the permit of any permit holder for being out of compliance with
138 an order for support, as defined in Section 93-11-153. The

139 procedure for suspension of a permit for being out of compliance
140 with an order for support, and the procedure for the reissuance or
141 reinstatement of a permit suspended for that purpose, and the
142 payment of any fees for the reissuance or reinstatement of a
143 permit suspended for that purpose, shall be governed by Section
144 93-11-157 or Section 93-11-163, as the case may be. If there is
145 any conflict between any provision of Section 93-11-157 or Section
146 93-11-163 and any provision of this chapter, the provisions of
147 Section 93-11-157 or Section 93-11-163, as the case may be, shall
148 control.

149 (c) To prescribe forms of permits and applications for
150 permits and of all reports which it deems necessary in
151 administering this chapter.

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

156 (e) To issue rules regulating the advertising of
157 alcoholic beverages in the state in any class of media and
158 permitting advertising of the retail price of alcoholic beverages.

159 (f) To issue reasonable rules and regulations, not
160 inconsistent with the federal laws or regulations, requiring
161 informative labeling of all alcoholic beverages offered for sale
162 within this state and providing for the standards of fill and
163 shapes of retail containers of alcoholic beverages; however, such
164 containers shall not contain less than fifty (50) milliliters by
165 liquid measure.

166 (g) Subject to the provisions of subsection (3) of
167 Section 67-1-51, to issue rules and regulations governing the
168 issuance of retail permits for premises located near or around
169 schools, colleges, universities, churches and other public
170 institutions, and specifying the distances therefrom within which
171 no such permit shall be issued. The Alcoholic Beverage Control

172 Division shall not issue a package retailer's or on-premises
173 retailer's permit for the sale or consumption of alcoholic
174 beverages in or on the campus of any public school, community or
175 junior college, college or university * * *.

176 (h) To adopt and promulgate, repeal and amend, such
177 rules, regulations, standards, requirements and orders, not
178 inconsistent with this chapter or any law of this state or of the
179 United States, as it deems necessary to control the manufacture,
180 importation, transportation, distribution and sale of alcoholic
181 liquor, whether intended for beverage or nonbeverage use in a
182 manner not inconsistent with the provisions of this chapter or any
183 other statute, including the native wine laws.

184 (i) To call upon other administrative departments of
185 the state, county and municipal governments, county and city
186 police departments and upon prosecuting officers for such
187 information and assistance as it may deem necessary in the
188 performance of its duties.

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

195 (k) To inspect, or cause to be inspected, any premises
196 where alcoholic liquors intended for sale are manufactured,
197 stored, distributed or sold, and to examine or cause to be
198 examined all books and records pertaining to the business
199 conducted therein.

200 (l) In the conduct of any hearing authorized to be held
201 by the commission, to hear testimony and take proof material for
202 its information in the discharge of its duties under this chapter;
203 to issue subpoenas, which shall be effective in any part of this
204 state, requiring the attendance of witnesses and the production of

205 books and records; to administer or cause to be administered
206 oaths; and to examine or cause to be examined any witness under
207 oath. Any court of record, or any judge thereof, may by order
208 duly entered require the attendance of witnesses and the
209 production of relevant books subpoenaed by the commission, and
210 such court or judge may compel obedience to its or his order by
211 proceedings for contempt.

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

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

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

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

232 (q) To enforce the provisions made unlawful by Sections
233 67-3-13, 67-3-15, 67-3-53, 67-3-57 and 67-3-70.

234 (2) No alcoholic beverage shall be sold or consumed at any
235 public athletic event at any public school, community or junior
236 college, college or university.

237 **[From and after July 1, 2011, this section will read as**
238 **follows:]**

239 67-1-37. (1) The State Tax Commission, under its duties and
240 powers with respect to the Alcoholic Beverage Control Division
241 therein, shall have the following powers, functions and duties:

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

246 (b) To revoke, suspend or cancel, for violation of or
247 noncompliance with the provisions of this chapter, or the law
248 governing the production and sale of native wines, or any lawful
249 rules and regulations of the commission issued hereunder, or for
250 other sufficient cause, any permit issued by it under the
251 provisions of this chapter; however, no such permit shall be
252 revoked, suspended or cancelled except after a hearing of which
253 the permit holder shall have been given reasonable notice and an
254 opportunity to be heard. The board shall be authorized to suspend
255 the permit of any permit holder for being out of compliance with
256 an order for support, as defined in Section 93-11-153. The
257 procedure for suspension of a permit for being out of compliance
258 with an order for support, and the procedure for the reissuance or
259 reinstatement of a permit suspended for that purpose, and the
260 payment of any fees for the reissuance or reinstatement of a
261 permit suspended for that purpose, shall be governed by Section
262 93-11-157 or 93-11-163, as the case may be. If there is any
263 conflict between any provision of Section 93-11-157 or 93-11-163
264 and any provision of this chapter, the provisions of Section
265 93-11-157 or 93-11-163, as the case may be, shall control.

266 (c) To prescribe forms of permits and applications for
267 permits and of all reports which it deems necessary in
268 administering this chapter.

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

273 (e) To issue rules regulating the advertising of
274 alcoholic beverages in the state in any class of media and
275 permitting advertising of the retail price of alcoholic beverages.

276 (f) To issue reasonable rules and regulations, not
277 inconsistent with the federal laws or regulations, requiring
278 informative labeling of all alcoholic beverages offered for sale
279 within this state and providing for the standards of fill and
280 shapes of retail containers of alcoholic beverages; however, such
281 containers shall not contain less than fifty (50) milliliters by
282 liquid measure.

283 (g) Subject to the provisions of subsection (3) of
284 Section 67-1-51, to issue rules and regulations governing the
285 issuance of retail permits for premises located near or around
286 schools, colleges, universities, churches and other public
287 institutions, and specifying the distances therefrom within which
288 no such permit shall be issued. The Alcoholic Beverage Control
289 Division shall not issue a package retailer's or on-premises
290 retailer's permit for the sale or consumption of alcoholic
291 beverages in or on the campus of any public school, community or
292 junior college, college or university * * *.

293 (h) To adopt and promulgate, repeal and amend, such
294 rules, regulations, standards, requirements and orders, not
295 inconsistent with this chapter or any law of this state or of the
296 United States, as it deems necessary to control the manufacture,
297 importation, transportation, distribution and sale of alcoholic
298 liquor, whether intended for beverage or nonbeverage use in a
299 manner not inconsistent with the provisions of this chapter or any
300 other statute, including the native wine laws.

301 (i) To call upon other administrative departments of
302 the state, county and municipal governments, county and city
303 police departments and upon prosecuting officers for such
304 information and assistance as it may deem necessary in the
305 performance of its duties.

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

312 (k) To inspect, or cause to be inspected, any premises
313 where alcoholic liquors intended for sale are manufactured,
314 stored, distributed or sold, and to examine or cause to be
315 examined all books and records pertaining to the business
316 conducted therein.

317 (l) In the conduct of any hearing authorized to be held
318 by the commission, to hear testimony and take proof material for
319 its information in the discharge of its duties under this chapter;
320 to issue subpoenas, which shall be effective in any part of this
321 state, requiring the attendance of witnesses and the production of
322 books and records; to administer or cause to be administered
323 oaths; and to examine or cause to be examined any witness under
324 oath. Any court of record, or any judge thereof, may by order
325 duly entered require the attendance of witnesses and the
326 production of relevant books subpoenaed by the commission, and
327 such court or judge may compel obedience to its or his order by
328 proceedings for contempt.

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

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

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

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

349 (2) No alcoholic beverage shall be sold or consumed at any
350 public athletic event at any public school, community or junior
351 college, college or university.

352 **SECTION 4.** Section 67-3-31, Mississippi Code of 1972, is
353 amended as follows:

354 **[Until July 1, 2011, this section will read as follows:]**

355 67-3-31. Proceedings for the revocation or suspension of any
356 permit authorizing the sale of beer or wine at retail for a
357 violation of any of the provisions of Section 67-3-53 may be
358 brought in the circuit or county court of the county in which the
359 licensed premises are located. Such proceedings shall be entitled
360 in the name of the state and against the permittee and shall be
361 instituted by filing a complaint with the clerk of the court. The
362 complaint may be filed by the county prosecuting attorney of the
363 county upon his own initiative or, then by the district attorney
364 of the district in which the county is located, and it shall be
365 mandatory upon the county prosecuting attorney, or district
366 attorney, as the case may be, to file a complaint when requested

367 to do so by a peace officer or any person as * * * provided in
368 this section. Any peace officer within his jurisdiction or any
369 enforcement officer of the Alcoholic Beverage Control Division
370 within the State Tax Commission who learns that a retail permittee
371 within his jurisdiction has violated any of the provisions of such
372 section shall file with the county prosecuting attorney of the
373 county in which the licensed premises are located, or, then with
374 the district attorney of the district in which such county is
375 located, an affidavit specifying in detail the facts alleged to
376 constitute such violation, and requesting that a complaint be
377 filed against the permittee for the revocation or suspension of
378 his permit. A like affidavit may be filed with the county
379 prosecuting attorney, or district attorney, as the case may be, by
380 any person who resides, and has for at least one (1) year prior
381 thereto resided within the county in which the licensed premises
382 are located requesting that a complaint be filed for the
383 revocation or suspension of the permittee's permit. Promptly upon
384 receiving any such affidavit the county prosecuting attorney, or
385 district attorney, shall prepare a proper complaint, which shall
386 be signed and sworn to by the person or persons filing the
387 affidavit with him, and the county prosecuting attorney or
388 district attorney shall file the complaint with the clerk of the
389 circuit or county court.

390 **[From and after July 1, 2011, this section will read as**
391 **follows:]**

392 67-3-31. Proceedings for the revocation or suspension of any
393 permit authorizing the sale of beer or wine at retail for a
394 violation of any of the provisions of Section 67-3-53 may be
395 brought in the circuit or county court of the county in which the
396 licensed premises are located. Such proceedings shall be entitled
397 in the name of the state and against the permittee and shall be
398 instituted by filing a complaint with the clerk of the court. The
399 complaint may be filed by the county prosecuting attorney of the

400 county upon his own initiative or, then by the district attorney
401 of the district in which the county is located, and it shall be
402 mandatory upon the county prosecuting attorney, or district
403 attorney, as the case may be, to file a complaint when requested
404 to do so by a peace officer or any person as * * * provided in
405 this section. Any peace officer who learns that a retail
406 permittee within his jurisdiction has violated any of the
407 provisions of such section shall file with the county prosecuting
408 attorney of the county in which the licensed premises are located,
409 or, then with the district attorney of the district in which such
410 county is located, an affidavit specifying in detail the facts
411 alleged to constitute such violation, and requesting that a
412 complaint be filed against the permittee for the revocation or
413 suspension of his permit. A like affidavit may be filed with the
414 county prosecuting attorney, or district attorney, as the case may
415 be, by any person who resides, and has for at least one (1) year
416 prior thereto resided within the county in which the licensed
417 premises are located requesting that a complaint be filed for the
418 revocation or suspension of the permittee's permit. Promptly upon
419 receiving any such affidavit the county prosecuting attorney, or
420 district attorney, shall prepare a proper complaint, which shall
421 be signed and sworn to by the person or persons filing the
422 affidavit with him, and the county prosecuting attorney or
423 district attorney shall file the complaint with the clerk of the
424 circuit or county court.

425 **SECTION 5.** Section 67-3-37, Mississippi Code of 1972, is
426 amended as follows:

427 **[Until July 1, 2011, this section will read as follows:]**

428 67-3-37. It shall be the duty of the county prosecuting
429 attorney or the district attorney, as the case may be, to file
430 complaints as provided in Section 67-3-31 and to prosecute
431 diligently and without delay all complaints filed by him.

432 It shall be the duty of all peace officers, within their
433 jurisdiction, and all enforcement officers of the Alcoholic
434 Beverage Control Division of the State Tax Commission to enforce
435 the provisions of Section 67-3-53 and they shall frequently visit
436 all licensed premises within their jurisdiction to determine
437 whether such permittees are complying with the laws. They shall
438 promptly investigate all complaints made to them by any citizen
439 relative to any alleged violations of such section within their
440 jurisdiction. When any peace officer or enforcement officer of
441 the Alcoholic Beverage Control Division has knowledge of a
442 violation of such section committed by a permittee within his
443 jurisdiction, it shall be his duty forthwith to file an affidavit
444 with the county prosecuting attorney or district attorney
445 requesting that a complaint be filed for the revocation or
446 suspension of the permit of the permittee.

447 **[From and after July 1, 2011, this section will read as**
448 **follows:]**

449 67-3-37. It shall be the duty of the county prosecuting
450 attorney or the district attorney, as the case may be, to file
451 complaints as provided in Section 67-3-31 and to prosecute
452 diligently and without delay all complaints filed by him.

453 It shall be the duty of all peace officers to enforce, within
454 their jurisdiction, the provisions of Section 67-3-53 and they
455 shall frequently visit all licensed premises within their
456 jurisdiction to determine whether such permittees are complying
457 with the laws. They shall promptly investigate all complaints
458 made to them by any citizen relative to any alleged violations of
459 such section within their jurisdiction. When any peace officer
460 has knowledge of a violation of such section committed by a
461 permittee within his jurisdiction, it shall be his duty forthwith
462 to file an affidavit with the county prosecuting attorney or
463 district attorney requesting that a complaint be filed for the
464 revocation or suspension of the permit of the permittee.

465 **SECTION 6.** Section 67-3-74, Mississippi Code of 1972, is
466 amended as follows:

467 67-3-74. (1) In addition to peace officers within their
468 jurisdiction, all enforcement officers of the Alcoholic Beverage
469 Control Division of the State Tax Commission are authorized to
470 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,
471 67-3-53, 67-3-57 and 67-3-70; provided, however, that the
472 provisions prohibiting the sale of light wine or beer to persons
473 under the age of twenty-one (21) years shall be enforced by the
474 division as provided for in this section.

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

480 (b) Upon receipt of such complaint or information, the
481 Alcoholic Beverage Control Division shall notify the permit holder
482 of the complaint by certified mail to the primary business office
483 of such permit holder or by hand delivery of the complaint or
484 information to the primary business office of such holder, except
485 in cases where the complaint or information is received from any
486 law enforcement officer.

487 (c) If an enforcement officer of the Alcoholic Beverage
488 Control Division enters the business of the holder of the permit
489 to investigate a complaint and discovers a violation, the agent
490 shall notify the person that committed the violation and the
491 holder of the permit:

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

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

498 (3) The provisions of this section shall be repealed on July
499 1, 2011.

500 **SECTION 7.** Section 27-71-301, Mississippi Code of 1972, is
501 amended as follows:

502 27-71-301. When used in this article the words and terms
503 hereafter mentioned shall have the following definitions:

504 (a) "State Auditor" means the State Auditor of Public
505 Accounts of the State of Mississippi or any legally appointed
506 deputy, clerk or agent.

507 (b) "Person" includes all natural persons or
508 corporations, a partnership, an association, a joint venture, an
509 estate, a trust, or any other group or combination acting as a
510 unit and shall include the plural as well as the singular unless
511 an intention to give another meaning thereto is disclosed in the
512 context.

513 (c) "Consumer" means a person who comes into the
514 possession of beer or light wine, the sale of which is authorized
515 by Chapter 3 of Title 67, Mississippi Code of 1972, for the
516 purpose of consuming it, giving it away or otherwise disposing of
517 it in any manner except by sale, barter or exchange.

518 (d) "Retailer" means any person who comes into the
519 possession of such light wines or beer for the purpose of selling
520 it to the consumer, or giving it away, or exposing it where it may
521 be taken or purchased or acquired in any other manner by the
522 consumer.

523 (e) "Wholesaler" means any person who comes into
524 possession of such light wine or beer for the purpose of selling,
525 distributing, or giving it away to retailers or other wholesalers
526 or dealers inside or outside of this state.

527 (f) "Commissioner" means the Chairman of the State Tax
528 Commission or his duly appointed agents or employees.

529 (g) "Sale" includes the exchange of such light wines or
530 beer for money, or giving away or distributing any such light
531 wines or beer for anything of value.

532 (h) "Light wines or beer" means beer and light wines
533 legalized for sale by the provisions of Chapter 3 of Title 67,
534 Mississippi Code of 1972.

535 (i) "Distributor" includes every person who receives
536 either from within or from without this state, from a brewery, a
537 winery or any other source, light wines or beer as defined in
538 Chapter 3 of Title 67, Mississippi Code of 1972, for the purpose
539 of distributing or otherwise disposing of such light wines or beer
540 to a wholesaler or retailer of such light wines or beer.

541 (j) "Brewpub" means the premises of any restaurant, as
542 defined in Section 67-1-5, Mississippi Code of 1972, in which
543 light wine or beer is manufactured or brewed, subject to the
544 production limitation imposed in Section 67-3-22, for consumption
545 exclusively on the premises. "Premises," for the purpose of this
546 paragraph (j) for a brewpub operated by a hospitality operator,
547 means only those areas immediately adjacent and connected to the
548 brewing facility where food is normally sold and consumed.
549 "Premises," for the purposes of this paragraph (j) for a brewpub
550 not operated by a hospitality operator, means those areas normally
551 used by the brewpub to conduct business and shall include the
552 selling areas, brewing areas and storage areas. For purposes of
553 this paragraph (j), hospitality operator shall have the meaning
554 ascribed to such term in Section 67-33-22.

555 (k) "Hospitality cart" means a mobile cart from which
556 alcoholic beverages and light wine and beer are sold on a golf
557 course and for which a hospitality cart permit has been issued
558 under Section 67-1-51.

559 **SECTION 8.** Section 67-1-51, Mississippi Code of 1972, is
560 amended as follows:

561 67-1-51. (1) Permits which may be issued by the commission
562 shall be as follows:

563 (a) **Manufacturer's permit.** A manufacturer's permit
564 shall permit the manufacture, importation in bulk, bottling and
565 storage of alcoholic liquor and its distribution and sale to
566 manufacturers holding permits under this chapter in this state and
567 to persons outside the state who are authorized by law to purchase
568 the same, and to sell exclusively to the commission.

569 Manufacturer's permits shall be of the following classes:

570 Class 1. Distiller's and/or rectifier's permit, which shall
571 authorize the holder thereof to operate a distillery for the
572 production of distilled spirits by distillation or redistillation
573 and/or to operate a rectifying plant for the purifying, refining,
574 mixing, blending, flavoring or reducing in proof of distilled
575 spirits and alcohol.

576 Class 2. Wine manufacturer's permit, which shall authorize
577 the holder thereof to manufacture, import in bulk, bottle and
578 store wine or vinous liquor.

579 Class 3. Native wine producer's permit, which shall
580 authorize the holder thereof to produce, bottle, store and sell
581 native wines.

582 (b) **Package retailer's permit.** Except as otherwise
583 provided in this paragraph, a package retailer's permit shall
584 authorize the holder thereof to operate a store exclusively for
585 the sale at retail in original sealed and unopened packages of
586 alcoholic beverages, including native wines, not to be consumed on
587 the premises where sold. Alcoholic beverages shall not be sold by
588 any retailer in any package or container containing less than
589 fifty (50) milliliters by liquid measure. In addition to the sale
590 at retail of packages of alcoholic beverages, the holder of a
591 package retailer's permit is authorized to sell at retail
592 corkscrews, wine glasses, soft drinks, ice, juices, mixers and
593 other beverages commonly used to mix with alcoholic beverages.

594 Nonalcoholic beverages sold by the holder of a package retailer's
595 permit shall not be consumed on the premises where sold.

596 (c) **On-premises retailer's permit.** An on-premises
597 retailer's permit shall authorize the sale of alcoholic beverages,
598 including native wines, for consumption on the licensed premises
599 only. Such a permit shall issue only to qualified hotels,
600 restaurants and clubs, and to common carriers with adequate
601 facilities for serving passengers. In resort areas, whether
602 inside or outside of a municipality, the commission may, in its
603 discretion, issue on-premises retailer's permits to such
604 establishments as it deems proper. An on-premises retailer's
605 permit when issued to a common carrier shall authorize the sale
606 and serving of alcoholic beverages aboard any licensed vehicle
607 while moving through any county of the state; however, the sale of
608 such alcoholic beverages shall not be permitted while such vehicle
609 is stopped in a county that has not legalized such sales.

610 (d) **Solicitor's permit.** A solicitor's permit shall
611 authorize the holder thereof to act as salesman for a manufacturer
612 or wholesaler holding a proper permit, to solicit on behalf of his
613 employer orders for alcoholic beverages, and to otherwise promote
614 his employer's products in a legitimate manner. Such a permit
615 shall authorize the representation of and employment by one (1)
616 principal only. However, the permittee may also, in the
617 discretion of the commission, be issued additional permits to
618 represent other principals. No such permittee shall buy or sell
619 alcoholic beverages for his own account, and no such beverage
620 shall be brought into this state in pursuance of the exercise of
621 such permit otherwise than through a permit issued to a wholesaler
622 or manufacturer in the state.

623 (e) **Native wine retailer's permit.** A native wine
624 retailer's permit shall be issued only to a holder of a Class 3
625 manufacturer's permit, and shall authorize the holder thereof to
626 make retail sales of native wines to consumers for on-premises

627 consumption or to consumers in originally sealed and unopened
628 containers at an establishment located on the premises of or in
629 the immediate vicinity of a native winery.

630 (f) **Temporary retailer's permit.** A temporary
631 retailer's permit shall permit the purchase and resale of
632 alcoholic beverages, including native wines, during legal hours on
633 the premises described in the temporary permit only.

634 Temporary retailer's permits shall be of the following
635 classes:

636 Class 1. A temporary one-day permit may be issued to bona
637 fide nonprofit civic or charitable organizations authorizing the
638 sale of alcoholic beverages, including native wine, for
639 consumption on the premises described in the temporary permit
640 only. Class 1 permits may be issued only to applicants
641 demonstrating to the commission, by affidavit submitted ten (10)
642 days prior to the proposed date or such other time as the
643 commission may determine, that they meet the qualifications of
644 Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57
645 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall
646 obtain all alcoholic beverages from package retailers located in
647 the county in which the temporary permit is issued. Alcoholic
648 beverages remaining in stock upon expiration of the temporary
649 permit may be returned by the permittee to the package retailer
650 for a refund of the purchase price upon consent of the package
651 retailer or may be kept by the permittee exclusively for personal
652 use and consumption, subject to all laws pertaining to the illegal
653 sale and possession of alcoholic beverages. The commission,
654 following review of the affidavit and the requirements of the
655 applicable statutes and regulations, may issue the permit.

656 Class 2. A temporary permit, not to exceed seventy (70)
657 days, may be issued to prospective permittees seeking to transfer
658 a permit authorized in either paragraph (b) or (c) of this
659 section. A Class 2 permit may be issued only to applicants

660 demonstrating to the commission, by affidavit, that they meet the
661 qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q),
662 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The
663 commission, following a preliminary review of the affidavit and
664 the requirements of the applicable statutes and regulations, may
665 issue the permit.

666 Class 2 temporary permittees must purchase their alcoholic
667 beverages directly from the commission or, with approval of the
668 commission, purchase the remaining stock of the previous
669 permittee. If the proposed applicant of a Class 1 or Class 2
670 temporary permit falsifies information contained in the
671 application or affidavit, the applicant shall never again be
672 eligible for a retail alcohol beverage permit and shall be subject
673 to prosecution for perjury.

674 (g) **Caterer's permit.** A caterer's permit shall permit
675 the purchase of alcoholic beverages by a person engaging in
676 business as a caterer and the resale of alcoholic beverages by
677 such person in conjunction with such catering business. No person
678 shall qualify as a caterer unless forty percent (40%) or more of
679 the revenue derived from such catering business shall be from the
680 serving of prepared food and not from the sale of alcoholic
681 beverages and unless such person has obtained a permit for such
682 business from the Department of Health. A caterer's permit shall
683 not authorize the sale of alcoholic beverages on the premises of
684 the person engaging in business as a caterer; however, the holder
685 of an on-premises retailer's permit may hold a caterer's permit.
686 When the holder of an on-premises retailer's permit or an
687 affiliated entity of the holder also holds a caterer's permit, the
688 caterer's permit shall not authorize the service of alcoholic
689 beverages on a consistent, recurring basis at a separate, fixed
690 location owned or operated by the caterer, on-premises retailer or
691 affiliated entity and an on-premises retailer's permit shall be
692 required for the separate location. All sales of alcoholic

693 beverages by holders of a caterer's permit shall be made at the
694 location being catered by the caterer, and such sales may be made
695 only for consumption at the catered location. The location being
696 catered may be anywhere within a county or judicial district that
697 has voted to come out from under the dry laws or in which the
698 sale, distribution and possession of alcoholic beverages is
699 otherwise authorized by law. Such sales shall be made pursuant to
700 any other conditions and restrictions which apply to sales made by
701 on-premises retail permittees. The holder of a caterer's permit
702 or his employees shall remain at the catered location as long as
703 alcoholic beverages are being sold pursuant to the permit issued
704 under this paragraph (g), and the permittee shall have at the
705 location the identification card issued by the Alcoholic Beverage
706 Control Division of the commission. No unsold alcoholic beverages
707 may be left at the catered location by the permittee upon the
708 conclusion of his business at that location. Appropriate law
709 enforcement officers and Alcoholic Beverage Control Division
710 personnel may enter a catered location on private property in
711 order to enforce laws governing the sale or serving of alcoholic
712 beverages.

713 (h) **Research permit.** A research permit shall authorize
714 the holder thereof to operate a research facility for the
715 professional research of alcoholic beverages. Such permit shall
716 authorize the holder of the permit to import and purchase limited
717 amounts of alcoholic beverages from the commission or from
718 importers, wineries and distillers of alcoholic beverages for
719 professional research.

720 (i) **Alcohol processing permit.** An alcohol processing
721 permit shall authorize the holder thereof to purchase, transport
722 and possess alcoholic beverages for the exclusive use in cooking,
723 processing or manufacturing products which contain alcoholic
724 beverages as an integral ingredient. An alcohol processing permit
725 shall not authorize the sale of alcoholic beverages on the

726 premises of the person engaging in the business of cooking,
727 processing or manufacturing products which contain alcoholic
728 beverages. The amounts of alcoholic beverages allowed under an
729 alcohol processing permit shall be set by the commission.

730 (j) **Hospitality cart permit.** A hospitality cart permit
731 shall authorize the sale of alcoholic beverages from a mobile cart
732 on a golf course that is the holder of an on-premises retailer's
733 permit. The alcoholic beverages sold from the cart must be
734 consumed within the boundaries of the golf course.

735 (2) Except as otherwise provided in subsection (4) of this
736 section, retail permittees may hold more than one (1) retail
737 permit, at the discretion of the commission.

738 (3) Except as otherwise provided in this subsection, no
739 authority shall be granted to any person to manufacture, sell or
740 store for sale any intoxicating liquor as specified in this
741 chapter within four hundred (400) feet of any church, school,
742 kindergarten or funeral home. However, within an area zoned
743 commercial or business, such minimum distance shall be not less
744 than one hundred (100) feet.

745 A church or funeral home may waive the distance restrictions
746 imposed in this subsection in favor of allowing issuance by the
747 commission of a permit, pursuant to subsection (1) of this
748 section, to authorize activity relating to the manufacturing, sale
749 or storage of alcoholic beverages which would otherwise be
750 prohibited under the minimum distance criterion. Such waiver
751 shall be in written form from the owner, the governing body, or
752 the appropriate officer of the church or funeral home having the
753 authority to execute such a waiver, and the waiver shall be filed
754 with and verified by the commission before becoming effective.

755 The distance restrictions imposed in this subsection shall
756 not apply to the sale or storage of alcoholic beverages at a bed
757 and breakfast inn listed in the National Register of Historic
758 Places.

759 (4) No person, either individually or as a member of a firm,
760 partnership, limited liability company or association, or as a
761 stockholder, officer or director in a corporation, shall own or
762 control any interest in more than one (1) package retailer's
763 permit, nor shall such person's spouse, if living in the same
764 household of such person, any relative of such person, if living
765 in the same household of such person, or any other person living
766 in the same household with such person own any interest in any
767 other package retailer's permit.

768 **SECTION 9.** This act shall take effect and be in force from
769 and after its passage.