

By: Representative Evans (91st)

To: Ways and Means

HOUSE BILL NO. 173

1 AN ACT TO AMEND SECTION 27-71-7 AND 27-71-11, MISSISSIPPI
2 CODE OF 1972, TO INCREASE THE EXCISE TAX AND MARKUP ON ALCOHOLIC
3 BEVERAGES; TO AMEND SECTION 27-71-307, MISSISSIPPI CODE OF 1972,
4 TO INCREASE THE EXCISE TAX ON LIGHT WINE AND BEER; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 27-71-7, Mississippi Code of 1972, is
8 amended as follows:

9 27-71-7. (1) There is hereby levied and assessed an excise
10 tax upon each case of alcoholic beverages sold by the department
11 to be collected from each retail licensee at the time of sale in
12 accordance with the following schedule:

13 (a) Distilled spirits.....\$3.75 per gallon

14 (b) Sparkling wine and champagne....\$1.50 per gallon

15 (c) Other wines, including native
16 wines.....\$0.525 per gallon

17 (2) (a) In addition to the tax levied by subsection (1) of
18 this section, and in addition to any other markup collected, the
19 Alcoholic Beverage Control Division shall collect a markup of four
20 and one-half percent (4.5%) on all alcoholic beverages, as defined
21 in Section 67-1-5, Mississippi Code of 1972, which are sold by the
22 division. The proceeds of the markup shall be collected by the
23 division from each purchaser at the time of purchase.

24 (b) Until June 30, 1987, the revenue derived from this
25 markup shall be deposited by the division in the State Treasury to
26 the credit of the "Alcoholism Treatment and Rehabilitation Fund,"
27 a special fund which is hereby created in the State Treasury, and
28 shall be used by the Division of Alcohol and Drug Abuse of the



29 State Department of Mental Health and public or private centers or
30 organizations solely for funding of treatment and rehabilitation
31 programs for alcoholics and alcohol abusers which are sponsored by
32 the division or public or private centers or organizations in such
33 amounts as the Legislature may appropriate to the division for use
34 by the division or public or private centers or organizations for
35 such programs. Any tax revenue in the fund which is not
36 encumbered at the end of the fiscal year shall lapse to the
37 General Fund. It is the intent of the Legislature that the State
38 Department of Mental Health shall continue to seek funds from
39 other sources and shall use the funds appropriated for the
40 purposes of this section and Section 27-71-29 to match all federal
41 funds which may be available for alcoholism treatment and
42 rehabilitation.

43 From and after July 1, 1987, the revenue derived from
44 this * * * markup shall be deposited by the division in the State
45 Treasury to the credit of the "Mental Health Programs Fund," a
46 special fund which is hereby created in the State Treasury and
47 shall be used by the State Department of Mental Health for the
48 service programs of the department. Any revenue in the
49 "Alcoholism Treatment and Rehabilitation Fund" which is not
50 encumbered at the end of Fiscal Year 1987 shall be deposited to
51 the credit of the "Mental Health Programs Fund."

52 **SECTION 2.** Section 27-71-11, Mississippi Code of 1972, is
53 amended as follows:

54 27-71-11. The department shall from time to time by
55 resolution request the State Bond Commission to provide sufficient
56 funds required to maintain an adequate alcoholic beverage
57 inventory. Said funds shall be provided under the provisions of
58 Chapter 557, Laws of 1966.

59 The department shall add to the cost of all alcoholic
60 beverages a markup of forty-one and one-quarter percent (41.25%),



61 inclusive of the four and one-half percent (4.5%) markup imposed
62 by Section 27-71-7(2).

63 The department shall sell alcoholic beverages at uniform
64 prices throughout the state.

65 **SECTION 3.** Section 27-71-307, Mississippi Code of 1972, is
66 amended as follows:

67 27-71-307. (1) (a) In addition to the specific tax imposed
68 in Section 27-71-303, there is hereby imposed, levied, assessed
69 and shall be collected, as hereinafter provided, an excise or
70 privilege tax upon each person engaged or continuing in the
71 business of wholesaler or distributor of light wines or beer
72 equivalent to Sixty-four and Two One-hundredths Cents (64.02¢) per
73 gallon upon all light wines and beer acquired for sale or
74 distribution in this state. Such excise or privilege tax is also
75 imposed at the same rate upon each gallon of light wine or beer
76 manufactured by brewpubs, each of which shall accurately and
77 reliably measure the quantity of light wine and beer produced by
78 using a measuring device such as a meter or gauge glass or any
79 other suitable method approved by the commissioner. Such tax is
80 hereby imposed as an additional tax for the privilege of engaging
81 or continuing in business.

82 (b) The excise tax imposed in this section shall be
83 paid to the Department of Revenue monthly on or before the
84 fifteenth day of the month following the month in which the beer
85 or light wine was manufactured or received in this state. Monthly
86 report forms shall be furnished by the commissioner to the
87 wholesalers, distributors and brewpubs.

88 (c) Provided that persons operating a railroad dining
89 car, club car or other car in interstate commerce upon which light
90 wines or beer may be sold and who are licensed under the
91 provisions of Section 67-3-27 and any other law relating to the
92 sale of such beverages shall keep such records of the sales of
93 such light wines and beer in this state as the commissioner shall



94 prescribe and shall submit monthly reports of such sales to the
95 commissioner within fifteen (15) days after the end of each month
96 on a form prescribed therefor by the commissioner, and shall pay
97 the tax due under the provisions of this section at the time such
98 reports are filed.

99 No official crowns, lids, labels or stamps with the word
100 "MISSISSIPPI" or "MS" imprinted thereon or any other evidence of
101 tax payment is required by this section, or may be required under
102 rule or regulation promulgated by the commissioner, to be affixed
103 on or to any part of a beer, light wine or malt cooler bottle, can
104 or other light wine or malt cooler container. For purposes of
105 this section, malt cooler products shall be defined as a flavored
106 malt beverage made from a base of malt beverage and flavored with
107 fruit juices, aromatics and essences of other flavoring in
108 quantities and proportions such that the resulting product
109 possesses a character and flavor distinctive from the base malt
110 beverage and distinguishable from other malt beverages.

111 (2) A licensed wholesaler or distributor of beer or light
112 wine may not import beer or light wine from any source other than
113 a brewer or importer authorized by the commissioner to sell such
114 beer or light wine in Mississippi. Any person who violates the
115 provisions of this subsection, upon conviction thereof, shall be
116 punished by a fine of not more than One Thousand Dollars
117 (\$1,000.00) or by imprisonment in the county jail for not more
118 than six (6) months, or by both such fine and imprisonment, in the
119 discretion of the court and shall be subject to license forfeiture
120 following an appropriate hearing before the Department of Revenue.

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



127 A brewpub shall be allowed credit for light wine or beer
128 which has passed through the meter, gauge glass or other approved
129 measuring device and which has been soured or damaged. The
130 brewpub shall record the removal of sour or damaged light wine or
131 beer and may take credit after the destruction is witnessed by an
132 agent of the commissioner and when the amount of excise tax
133 exceeds Twenty-five Dollars (\$25.00). No other loss shall be
134 allowed.

135 (4) All manufacturers, brewers and importers of beer or
136 light wine shall file monthly reports as prescribed by the
137 commissioner listing sales to each wholesaler or distributor by
138 date, invoice number, quantity and container size, and any other
139 information deemed necessary.

140 (5) All administrative provisions of the Mississippi Sales
141 Tax Law, including those which fix damages, penalties and interest
142 for nonpayment of taxes and for noncompliance with the provisions
143 of such chapter, and all other requirements and duties imposed
144 upon taxpayers, shall apply to all persons liable for taxes under
145 the provisions of this chapter, and the commissioner shall
146 exercise all the power and authority and perform all the duties
147 with respect to taxpayers under this chapter as are provided in
148 the sales tax law except where there is conflict, then the
149 provisions of this chapter shall control.

150 **SECTION 4.** This act shall take effect and be in force from
151 and after July 1, 2011.

