

By: Representative Snowden

To: Drug Policy

HOUSE BILL NO. 518

1 AN ACT TO AMEND SECTION 67-1-5, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITION OF THE TERM "ALCOHOLIC BEVERAGE" UNDER THE
 3 LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW TO PROVIDE THAT THE
 4 TERM DOES NOT INCLUDE POWDERED ALCOHOL; TO DEFINE THE TERM
 5 "POWDERED ALCOHOL" UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE
 6 CONTROL LAW; TO AMEND SECTIONS 67-1-9 AND 67-1-17, TO PROVIDE THAT
 7 POWDERED ALCOHOL IS PROHIBITED IN THIS STATE AND MAY NOT LAWFULLY
 8 BE MANUFACTURED, MIXED, PROCESSED, SOLD, POSSESSED, IMPORTED INTO
 9 THE STATE, EXPORTED FROM THE STATE, TRANSPORTED, DISTRIBUTED,
 10 WAREHOUSED OR STORED IN THIS STATE, AND THAT POWDERED ALCOHOL IS
 11 SUBJECT TO SEIZURE BY THE DEPARTMENT OF REVENUE AND FORFEITURE; TO
 12 AMEND SECTIONS 67-1-18, 67-1-72, 67-1-93, 67-1-95, 67-1-97 AND
 13 67-1-99, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 67-1-5, Mississippi Code of 1972, is
 16 amended as follows:

17 67-1-5. For the purposes of this chapter and unless
 18 otherwise required by the context:

19 (a) "Alcoholic beverage" means any alcoholic liquid,
 20 including wines of more than five percent (5%) of alcohol by
 21 weight, capable of being consumed as a beverage by a human being,
 22 but shall not include light wine and beer, as defined in Section
 23 67-3-3, Mississippi Code of 1972, but shall include native wines.



24 The words "alcoholic beverage" shall not include ethyl alcohol
25 manufactured or distilled solely for fuel purposes or beer of an
26 alcoholic content of more than eight percent (8%) by weight if the
27 beer is legally manufactured in this state for sale in another
28 state. "Alcoholic beverage" shall not include powdered alcohol.

29 (b) "Alcohol" means the product of distillation of any
30 fermented liquid, whatever the origin thereof, and includes
31 synthetic ethyl alcohol, but does not include denatured alcohol or
32 wood alcohol.

33 (c) "Distilled spirits" means any beverage containing
34 more than four percent (4%) of alcohol by weight produced by
35 distillation of fermented grain, starch, molasses or sugar,
36 including dilutions and mixtures of these beverages.

37 (d) "Wine" or "vinous liquor" means any product
38 obtained from the alcoholic fermentation of the juice of sound,
39 ripe grapes, fruits or berries and made in accordance with the
40 revenue laws of the United States.

41 (e) "Person" means and includes any individual,
42 partnership, corporation, association or other legal entity
43 whatsoever.

44 (f) "Manufacturer" means any person engaged in
45 manufacturing, distilling, rectifying, blending or bottling any
46 alcoholic beverage.

47 (g) "Wholesaler" means any person, other than a
48 manufacturer, engaged in distributing or selling any alcoholic



49 beverage at wholesale for delivery within or without this state
50 when such sale is for the purpose of resale by the purchaser.

51 (h) "Retailer" means any person who sells, distributes,
52 or offers for sale or distribution, any alcoholic beverage for use
53 or consumption by the purchaser and not for resale.

54 (i) "State Tax Commission," "commission" or
55 "department" means the Department of Revenue of the State of
56 Mississippi, which shall create a division in its organization to
57 be known as the Alcoholic Beverage Control Division. Any
58 reference to the commission or the department hereafter means the
59 powers and duties of the Department of Revenue with reference to
60 supervision of the Alcoholic Beverage Control Division.

61 (j) "Division" means the Alcoholic Beverage Control
62 Division of the Department of Revenue.

63 (k) "Municipality" means any incorporated city or town
64 of this state.

65 (l) "Hotel" means an establishment within a
66 municipality, or within a qualified resort area approved as such
67 by the department, where, in consideration of payment, food and
68 lodging are habitually furnished to travelers and wherein are
69 located at least twenty (20) adequately furnished and completely
70 separate sleeping rooms with adequate facilities that persons
71 usually apply for and receive as overnight accommodations. Hotels
72 in towns or cities of more than twenty-five thousand (25,000)
73 population are similarly defined except that they must have fifty



74 (50) or more sleeping rooms. Any such establishment described in
75 this paragraph with less than fifty (50) beds shall operate one or
76 more regular dining rooms designed to be constantly frequented by
77 customers each day. When used in this chapter, the word "hotel"
78 shall also be construed to include any establishment that meets
79 the definition of "bed and breakfast inn" as provided in this
80 section.

81 (m) "Restaurant" means:

82 (i) A place which is regularly and in a bona fide
83 manner used and kept open for the serving of meals to guests for
84 compensation, which has suitable seating facilities for guests,
85 and which has suitable kitchen facilities connected therewith for
86 cooking an assortment of foods and meals commonly ordered at
87 various hours of the day; the service of such food as sandwiches
88 and salads only shall not be deemed in compliance with this
89 requirement. Except as otherwise provided in this paragraph, no
90 place shall qualify as a restaurant under this chapter unless
91 twenty-five percent (25%) or more of the revenue derived from such
92 place shall be from the preparation, cooking and serving of meals
93 and not from the sale of beverages, or unless the value of food
94 given to and consumed by customers is equal to twenty-five percent
95 (25%) or more of total revenue; or

96 (ii) Any privately owned business located in a
97 building in a historic district where the district is listed in
98 the National Register of Historic Places, where the building has a



99 total occupancy rating of not less than one thousand (1,000) and
100 where the business regularly utilizes ten thousand (10,000) square
101 feet or more in the building for live entertainment, including not
102 only the stage, lobby or area where the audience sits and/or
103 stands, but also any other portion of the building necessary for
104 the operation of the business, including any kitchen area, bar
105 area, storage area and office space, but excluding any area for
106 parking. In addition to the other requirements of this
107 subparagraph, the business must also serve food to guests for
108 compensation within the building and derive the majority of its
109 revenue from event-related fees, including, but not limited to,
110 admission fees or ticket sales to live entertainment in the
111 building, and from the rental of all or part of the facilities of
112 the business in the building to another party for a specific event
113 or function.

114 (n) "Club" means an association or a corporation:

115 (i) Organized or created under the laws of this
116 state for a period of five (5) years prior to July 1, 1966;

117 (ii) Organized not primarily for pecuniary profit
118 but for the promotion of some common object other than the sale or
119 consumption of alcoholic beverages;

120 (iii) Maintained by its members through the
121 payment of annual dues;

122 (iv) Owning, hiring or leasing a building or space
123 in a building of such extent and character as may be suitable and



124 adequate for the reasonable and comfortable use and accommodation
125 of its members and their guests;

126 (v) The affairs and management of which are
127 conducted by a board of directors, board of governors, executive
128 committee, or similar governing body chosen by the members at a
129 regular meeting held at some periodic interval; and

130 (vi) No member, officer, agent or employee of
131 which is paid, or directly or indirectly receives, in the form of
132 a salary or other compensation any profit from the distribution or
133 sale of alcoholic beverages to the club or to members or guests of
134 the club beyond such salary or compensation as may be fixed and
135 voted at a proper meeting by the board of directors or other
136 governing body out of the general revenues of the club.

137 The department may, in its discretion, waive the five-year
138 provision of this paragraph. In order to qualify under this
139 paragraph, a club must file with the department, at the time of
140 its application for a license under this chapter, two (2) copies
141 of a list of the names and residences of its members and similarly
142 file, within ten (10) days after the election of any additional
143 member, his name and address. Each club applying for a license
144 shall also file with the department at the time of the application
145 a copy of its articles of association, charter of incorporation,
146 bylaws or other instruments governing the business and affairs
147 thereof.



148 (o) "Qualified resort area" means any area or locality
149 outside of the limits of incorporated municipalities in this state
150 commonly known and accepted as a place which regularly and
151 customarily attracts tourists, vacationists and other transients
152 because of its historical, scenic or recreational facilities or
153 attractions, or because of other attributes which regularly and
154 customarily appeal to and attract tourists, vacationists and other
155 transients in substantial numbers; however, no area or locality
156 shall so qualify as a resort area until it has been duly and
157 properly approved as such by the department.

158 (i) The department may approve an area or locality
159 outside of the limits of an incorporated municipality that is in
160 the process of being developed as a qualified resort area if such
161 area or locality, when developed, can reasonably be expected to
162 meet the requisites of the definition of the term "qualified
163 resort area." In such a case, the status of qualified resort area
164 shall not take effect until completion of the development.

165 (ii) The term includes any state park which is
166 declared a resort area by the department; however, such
167 declaration may only be initiated in a written request for resort
168 area status made to the department by the Executive Director of
169 the Department of Wildlife, Fisheries and Parks, and no permit for
170 the sale of any alcoholic beverage, as defined in this chapter,
171 except an on-premises retailer's permit, shall be issued for a
172 hotel, restaurant or bed and breakfast inn in such park.



173 (iii) The term includes:

174 1. The clubhouses associated with the state
175 park golf courses at the Lefleur's Bluff State Park, the John Kyle
176 State Park, the Percy Quin State Park and the Hugh White State
177 Park;

178 2. The clubhouse and associated golf course
179 where the golf course is adjacent to one or more planned
180 residential developments and the golf course and all such
181 developments collectively include at least seven hundred fifty
182 (750) acres and at least four hundred (400) residential units;

183 3. Any facility located on property that is a
184 game reserve with restricted access that consists of at least
185 three thousand (3,000) contiguous acres with no public roads and
186 that offers as a service hunts for a fee to overnight guests of
187 the facility;

188 4. Any facility located on federal property
189 surrounding a lake and designated as a recreational area by the
190 United States Army Corps of Engineers that consists of at least
191 one thousand five hundred (1,500) acres;

192 5. Any facility that is located in a
193 municipality that is bordered by the Pearl River, traversed by
194 Mississippi Highway 25, adjacent to the boundaries of the Jackson
195 International Airport and is located in a county which has voted
196 against coming out from under the dry law; however, any such



197 facility may only be located in areas designated by the governing
198 authorities of such municipality;

199 6. Any municipality with a population in
200 excess of ten thousand (10,000) according to the latest federal
201 decennial census that is located in a county that is bordered by
202 the Pearl River and is not traversed by Interstate Highway 20,
203 with a population in excess of forty-five thousand (45,000)
204 according to the latest federal decennial census; however, the
205 governing authorities of such a municipality may by ordinance:

206 a. Specify the hours of operation of
207 facilities that offer alcoholic beverages for sale;

208 b. Specify the percentage of revenue
209 that facilities that offer alcoholic beverages for sale must
210 derive from the preparation, cooking and serving of meals and not
211 from the sale of beverages;

212 c. Designate the areas in which
213 facilities that offer alcoholic beverages for sale may be located;

214 7. The West Pearl Restaurant Tax District as
215 defined in Chapter 912, Local and Private Laws of 2007;

216 8. Land that is owned by the Pearl River
217 Valley Water Supply District and located in any county in which
218 Mississippi Highway 43 and Mississippi Highway 25 intersect;

219 9. Any facility located on property that is a
220 game reserve with restricted access that consists of at least
221 eight hundred (800) contiguous acres with no public roads, that



222 offers as a service hunts for a fee to overnight guests of the
223 facility, and has accommodations for at least fifty (50) overnight
224 guests;

225 10. Any facility that:

226 a. Consists of at least six thousand
227 (6,000) square feet being heated and cooled along with an
228 additional adjacent area that consists of at least two thousand
229 two hundred (2,200) square feet regardless of whether heated and
230 cooled,

231 b. For a fee is used to host events such
232 as weddings, reunions and conventions,

233 c. Provides lodging accommodations
234 regardless of whether part of the facility and/or located adjacent
235 to or in close proximity to the facility, and

236 d. Is located on property that consists
237 of at least thirty (30) contiguous acres;

238 11. Any facility and related property:

239 a. Located on property that consists of
240 at least one hundred twenty-five (125) contiguous acres and
241 consisting of an eighteen (18) hole golf course, and/or located in
242 a facility that consists of at least eight thousand (8,000) square
243 feet being heated and cooled,

244 b. Used for the purpose of providing
245 meals and hosting events, and



246 c. Used for the purpose of teaching
247 culinary arts courses and/or turf management and grounds keeping
248 courses, and/or outdoor recreation and leadership courses;

249 12. Any facility and related property that:

250 a. Consist of at least eight thousand
251 (8,000) square feet being heated and cooled,

252 b. For a fee is used to host events,

253 c. Is located on property on or near a
254 bayou or other waterway,

255 d. Is used for the purpose of culinary
256 arts courses, and/or outdoor recreation and leadership courses.

257 The status of these municipalities, districts, clubhouses,
258 facilities, golf courses and areas described in subparagraph (iii)
259 of this paragraph (o) as qualified resort areas does not require
260 any declaration of same by the department.

261 (p) "Native wine" means any product, produced in
262 Mississippi for sale, having an alcohol content not to exceed
263 twenty-one percent (21%) by weight and made in accordance with
264 revenue laws of the United States, which shall be obtained
265 primarily from the alcoholic fermentation of the juice of ripe
266 grapes, fruits, berries or vegetables grown and produced in
267 Mississippi; provided that bulk, concentrated or fortified wines
268 used for blending may be produced without this state and used in
269 producing native wines. The department shall adopt and promulgate
270 rules and regulations to permit a producer to import such bulk



271 and/or fortified wines into this state for use in blending with
272 native wines without payment of any excise tax that would
273 otherwise accrue thereon.

274 (q) "Native winery" means any place or establishment
275 within the State of Mississippi where native wine is produced, in
276 whole or in part, for sale.

277 (r) "Bed and breakfast inn" means an establishment
278 within a municipality where in consideration of payment, breakfast
279 and lodging are habitually furnished to travelers and wherein are
280 located not less than eight (8) and not more than nineteen (19)
281 adequately furnished and completely separate sleeping rooms with
282 adequate facilities, that persons usually apply for and receive as
283 overnight accommodations; however, such restriction on the minimum
284 number of sleeping rooms shall not apply to establishments on the
285 National Register of Historic Places. No place shall qualify as a
286 bed and breakfast inn under this chapter unless on the date of the
287 initial application for a license under this chapter more than
288 fifty percent (50%) of the sleeping rooms are located in a
289 structure formerly used as a residence.

290 (s) "Board" shall refer to the Board of Tax Appeals of
291 the State of Mississippi.

292 (t) "Spa facility" means an establishment within a
293 municipality or qualified resort area and owned by a hotel where,
294 in consideration of payment, patrons receive from licensed



295 professionals a variety of private personal care treatments such
296 as massages, facials, waxes, exfoliation and hairstyling.

297 (u) "Art studio or gallery" means an establishment
298 within a municipality or qualified resort area that is in the sole
299 business of allowing patrons to view and/or purchase paintings and
300 other creative artwork.

301 (v) "Cooking school" means an establishment within a
302 municipality or qualified resort area and owned by a nationally
303 recognized company that offers an established culinary education
304 curriculum and program where, in consideration of payment, patrons
305 are given scheduled professional group instruction on culinary
306 techniques. For purposes of this paragraph, the definition of
307 cooking school shall not include schools or classes offered by
308 grocery stores, convenience stores or drugstores.

309 (w) "Powdered alcohol" means alcohol processed to a
310 powder form that, when mixed with liquid or used in conjunction
311 with a nebulizer, may be ingested or inhaled.

312 **SECTION 2.** Section 67-1-9, Mississippi Code of 1972, is
313 amended as follows:

314 67-1-9. (1) It shall be unlawful for any person to
315 manufacture, distill, brew, sell, possess, import into this state,
316 export from the state, transport, distribute, warehouse, store,
317 solicit, take order for, bottle, rectify, blend, treat, mix or
318 process any alcoholic beverage except as authorized in this
319 chapter. However, nothing contained herein shall prevent



320 importers, wineries and distillers of alcoholic beverages from
321 storing such alcoholic beverages in private bonded warehouses
322 located within the State of Mississippi for the ultimate use and
323 benefit of the * * * Department of Revenue as provided in Section
324 67-1-41. The * * * department is hereby authorized to promulgate
325 rules and regulations for the establishment of such private bonded
326 warehouses and for the control of alcoholic beverages stored in
327 such warehouses. Additionally, nothing herein contained shall
328 prevent any duly licensed practicing physician or dentist from
329 possessing or using alcoholic liquor in the strict practice of his
330 profession, or prevent any hospital or other institution caring
331 for sick and diseased persons, from possessing and using alcoholic
332 liquor for the treatment of bona fide patients of such hospital or
333 other institution. Any drugstore employing a licensed pharmacist
334 may possess and use alcoholic liquors in the combination of
335 prescriptions of duly licensed physicians. The possession and
336 dispensation of wine by an authorized representative of any church
337 for the purpose of conducting any bona fide rite or religious
338 ceremony conducted by such church shall not be prohibited by this
339 chapter. Powdered alcohol is prohibited in the State of
340 Mississippi and may not lawfully be manufactured, mixed,
341 processed, sold, possessed, imported into the state, exported from
342 the state, transported, distributed, warehoused or stored in this
343 state.



344 (2) Any person, upon conviction of any provision of this
345 section, shall be punished as follows:

346 (a) By a fine of not less than One Hundred Dollars
347 (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by
348 imprisonment in the county jail not less than one (1) week nor
349 more than three (3) months, or both, for the first conviction
350 under this section.

351 (b) By a fine of not less than One Hundred Dollars
352 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
353 imprisonment in the county jail not less than sixty (60) days, nor
354 more than six (6) months, or both fine and imprisonment, for the
355 second conviction for violating this section.

356 (c) By a fine of not less than One Hundred Dollars
357 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by
358 imprisonment in the State Penitentiary not less than one (1) year,
359 nor more than five (5) years, or both fine and imprisonment, for
360 conviction the third time under this section for the violation
361 thereof after having been twice convicted of its violation.

362 **SECTION 3.** Section 67-1-17, Mississippi Code of 1972, is
363 amended as follows:

364 67-1-17. (1) It shall be unlawful for any person to have or
365 possess * * * alcoholic beverages, powdered alcohol or personal
366 property intended for use in violating the provisions of this
367 chapter, or regulations prescribed under this chapter, or Chapter
368 31 of Title 97, Mississippi Code of 1972. No property rights



369 shall exist in any such personal property, powdered alcohol or
370 alcoholic beverages. All such personal property, powdered alcohol
371 and alcoholic beverages shall be considered contraband and shall
372 be seized and forfeited to the State of Mississippi.

373 (2) The following are subject to forfeiture:

374 (a) All alcoholic beverages or powdered alcohol which
375 have been manufactured, distilled, distributed, dispensed,
376 processed or acquired in violation of this chapter or Chapter 31
377 of Title 97, Mississippi Code of 1972;

378 (b) All raw materials, products and equipment of any
379 kind which are used, or intended for use, in manufacturing,
380 compounding, processing, delivering, importing or exporting any
381 alcoholic beverage or powdered alcohol in violation of this
382 chapter or Chapter 31 of Title 97, Mississippi Code of 1972;

383 (c) All property which is used, or intended for use, as
384 a container for property described in items (a) or (b) of this
385 subsection;

386 (d) All conveyances, including aircraft, vehicles or
387 vessels, which are used, or intended for use, to transport, or in
388 any manner to facilitate the transportation, for the purpose of
389 sale or receipt, possession or concealment, of property described
390 in item (a) of this subsection which is in excess of six (6)
391 gallons or of property described in item (b) of this subsection;
392 however,



393 (i) No conveyance used by any person as a common
394 carrier in the transaction of business as a common carrier is
395 subject to forfeiture under this section unless it appears that
396 the owner or other person in charge of the conveyance is a
397 consenting party or privy to a violation of this chapter or
398 Chapter 31 of Title 97, Mississippi Code of 1972;

399 (ii) No conveyance is subject to forfeiture under
400 this section by reason of any act or omission proved by the owner
401 thereof to have been committed or omitted without his knowledge or
402 consent; if the confiscating authority has reason to believe that
403 the conveyance is a leased or rented conveyance, then the
404 confiscating authority shall notify the owner of the conveyance
405 within five (5) days of the confiscation; and

406 (iii) A forfeiture of a conveyance encumbered by a
407 bona fide security interest is subject to the interest of the
408 secured party if he neither had knowledge of nor consented to the
409 act or omission;

410 (e) All money, deadly weapons, books, records and
411 research products and materials, including formulas, microfilm,
412 tapes and data which are used, or intended for use, in violation
413 of this chapter or Chapter 31 of Title 97, Mississippi Code of
414 1972.

415 (3) Property subject to forfeiture may be seized by the
416 Alcoholic Beverage Control Division and its agents, local law
417 enforcement officers, Mississippi Highway Patrol officers and



418 other law enforcement personnel charged by Section 67-1-91, with
419 enforcing the provisions of this chapter upon process issued by
420 any appropriate court having jurisdiction over the property.

421 Seizure without process may be made if:

422 (a) The seizure is incident to an arrest or a search
423 under a search warrant or an administrative inspection under
424 Section 67-1-37(k);

425 (b) The property subject to seizure has been the
426 subject of a prior judgment in favor of the state in a criminal
427 injunction or forfeiture proceeding based upon this chapter or
428 Chapter 31 of Article 97, Mississippi Code of 1972; or

429 (c) The Alcoholic Beverage Control Division of
430 the * * * Department of Revenue and other law enforcement
431 personnel described in this subsection have probable cause to
432 believe that the property was used or is intended to be used in
433 violation of this chapter or Chapter 31 of Article 97, Mississippi
434 Code of 1972.

435 (4) Alcoholic beverages, powdered alcohol and raw materials
436 seized or detained under the authority of this chapter or Chapter
437 31 of Title 97, Mississippi Code of 1972, is deemed to be in the
438 custody of the agent or agency so seizing the property and subject
439 only to the orders and decrees of the court having jurisdiction
440 over the property. When such property is seized it may be
441 retained as evidence until final disposition of the cause in which
442 such property is involved, and then the agent or agency so seizing



443 the property shall physically transfer such alcoholic beverage,
444 powdered alcohol or raw material to the Director of the Alcoholic
445 Beverage Control Division of the * * * Department of Revenue
446 together with an appropriate inventory of the items seized.
447 Alcoholic beverages, powdered alcohol and raw materials seized or
448 detained under the authority of this section shall be disposed of
449 in accordance with the provisions of Section 67-1-18.

450 (5) Any property other than alcoholic beverages, powdered
451 alcohol and raw materials seized or detained pursuant to this
452 chapter or Chapter 31 of Title 97, Mississippi Code of 1972, shall
453 be deemed to be in the custody of the agent or agency so seizing
454 the property and subject only to the orders and decrees of the
455 court having jurisdiction over the property. When such property
456 is seized it may be retained as evidence until the final
457 disposition of the cause in which such property is involved.
458 Property seized or detained other than alcoholic beverages,
459 powdered alcohol or raw materials shall be disposed of in
460 accordance with the provisions of Sections 67-1-93, 67-1-95 and
461 67-1-97.

462 **SECTION 4.** Section 67-1-18, Mississippi Code of 1972, is
463 amended as follows:

464 67-1-18. (1) Any alcoholic beverage, powdered alcohol,
465 light wine, beer or raw material seized under the authority of
466 this chapter, Chapter 3 of Title 67, or Chapter 31 of Title 97,



467 Mississippi Code of 1972, shall be submitted to the custody of the
468 Mississippi Department of Revenue for disposition.

469 (2) The department shall not dispose of any alcoholic
470 beverage, powdered alcohol, light wine, beer or raw material
471 without first having a hearing with reasonable notice to all
472 individuals having an interest in the property and an opportunity
473 for them to appear and establish their right or claim to the
474 property. If no appeal is requested by the passage of the
475 appropriate deadline, the department shall require the alcoholic
476 beverages, powdered alcohol, light wine, beer or raw materials to
477 be sold for the benefit of the state or destroyed.

478 (3) (a) If the department orders the property, other than
479 alcoholic beverages or powdered alcohol, sold, then the property
480 shall be sold to the highest bidder, the bidder being any person,
481 firm or government agency. The offer for sale shall be made to
482 not less than three (3) qualified prospective buyers, by mailing
483 them an invitation to bid, which shall describe the property,
484 terms of sale, method of delivery, manner of bidding and fixing a
485 time of not more than fifteen (15) days from the date of
486 invitation for opening of bids received by the department.

487 (b) All bids and payment shall be made in the manner as
488 prescribed by the department. Bids, after opening, shall be
489 subject to public inspection.

490 (4) If the department orders the sale of seized alcoholic
491 beverages, it may place the alcoholic beverages in the state



492 inventory to be sold to authorized retailers in the same manner as
493 other alcoholic beverages in the state inventory are sold.

494 (5) Any appeal from a seizure and disposal made under this
495 section shall be made pursuant to Section 67-1-72.

496 **SECTION 5.** Section 67-1-72, Mississippi Code of 1972, is
497 amended as follows:

498 67-1-72. (1) Except as otherwise provided in this chapter,
499 any applicant or holder of a permit issued under this chapter
500 which is aggrieved by an action of the Department of Revenue to
501 deny his application for a permit, to deny the renewal of his
502 permit or to revoke or suspend his permit shall be allowed to
503 appeal to the Board of Tax Appeals from this action. This appeal
504 is to be filed by the aggrieved person with the Executive Director
505 of the Board of Tax Appeals, with a copy being sent to the
506 Department of Revenue, within fifteen (15) days from the date that
507 person received notice of the action of the department being
508 aggrieved. If the person aggrieved fails to appeal within this
509 fifteen-day period, the action of the Department of Revenue shall
510 take effect as set out in the notice. The Department of Revenue
511 retains the authority to change at any time the action aggrieved
512 to in an appeal under this subsection. The applicant or holder of
513 any permit issued under this chapter may waive his right to notice
514 and opportunity to a hearing as provided by this subsection and
515 agree to the action being taken by the department. The inability
516 of the Department of Revenue to issue or renew a permit due to an



517 incomplete application or due to the failure of the applicant to
518 pay the annual privilege taxes and fees provided by Section
519 27-71-5 and/or the failure of the applicant to post or deposit the
520 bond, cash or securities as required by Section 27-71-21 shall not
521 constitute a denial for purposes of this subsection.

522 (2) Any applicant for approval as a manager of an
523 establishment operating under a permit issued under this chapter
524 or who holds the designation of an approved manager of an
525 establishment operating under a permit issued under this chapter
526 and who is aggrieved by an action of the Department of Revenue to
527 deny his application for approval as a manager or to revoke or
528 suspend his designation as an approved manager shall be allowed to
529 appeal to the Board of Tax Appeals from this action. This appeal
530 is to be filed by the aggrieved person with the Executive Director
531 of the Board of Tax Appeals, with a copy being sent to the
532 Department of Revenue, within fifteen (15) days from the date that
533 person received notice of the action of the department being
534 aggrieved. If the person aggrieved fails to appeal within this
535 fifteen-day period, the action of the Department of Revenue shall
536 take effect as set out in the notice. The Department of Revenue
537 retains the authority to change at any time the action aggrieved
538 to in an appeal under this subsection. The applicant or holder of
539 an approved manager designation may waive his right to notice and
540 opportunity to a hearing as provided by this subsection and agree
541 to the action being taken by the department. The inability of the



542 Department of Revenue to consider an application for approval of
543 an applicant as a manager due to an incomplete application shall
544 not constitute a denial of the application for purposes of this
545 subsection.

546 (3) Any applicant for approval of an area or locality as a
547 qualified resort area under this chapter who is aggrieved by the
548 decision of the Department of Revenue to deny the qualified resort
549 area as requested and any county or municipality wherein the
550 proposed qualified resort area is located may appeal to the Board
551 of Tax Appeals from such decision. This appeal is to be filed by
552 the aggrieved applicant or by the affected county or municipality
553 with the Executive Director of the Board of Tax Appeals, with a
554 copy being sent to the Department of Revenue, within fifteen (15)
555 days from the date that the person or entity filing the appeal
556 received notice of the decision of the Department of Revenue to
557 deny the qualified resort area. If an appeal is not filed within
558 this fifteen-day period, the decision of the Department of Revenue
559 shall become final. The Department of Revenue retains the
560 authority to change at any time the decision aggrieved to in an
561 appeal under this subsection. The inability of the Department of
562 Revenue to consider an application for the approval of an area or
563 locality as a qualified resort area due to an incomplete
564 application shall not constitute a denial of that application for
565 purposes of this subsection.



566 (4) Any person, including any county or municipality in
567 which the qualified resort area is located, who is aggrieved by
568 the decision of the Department of Revenue to revoke the approval
569 of an area or locality as a qualified resort area may appeal to
570 the Board of Tax Appeals from such decision. This appeal is to be
571 filed by the aggrieved person with the Executive Director of the
572 Board of Tax Appeals, with a copy being sent to the Department of
573 Revenue, within fifteen (15) days from the date that the person or
574 entity filing the appeal received notice of the decision of the
575 department to revoke approval of the qualified resort area. At
576 the discretion of the Department of Revenue, in addition to any
577 other notice to be provided under this subsection, the department
578 may provide notice of its decision to revoke approval of the
579 qualified resort area by publication in the same manner as
580 provided by regulation when approval of a qualified resort area is
581 sought. In regard to such publication, the fifteen-day period
582 provided herein will begin on the date that notice is first
583 published. If an appeal is not filed within this fifteen-day
584 period, the decision of the Department of Revenue shall become
585 final. The Department of Revenue retains the authority to change
586 at any time the decision aggrieved to in an appeal under this
587 subsection.

588 (5) Any person objecting to an application for the issuance
589 or transfer of a permit, other than a temporary retailer's permit,
590 issued under this chapter and who timely requests in writing a



591 hearing on his objection shall be given a hearing before the Board
592 of Tax Appeals unless the permit is denied by the Department of
593 Revenue and an appeal is not taken by the applicant to the Board
594 of Tax Appeals from that denial or the applicant withdraws his
595 application. Any written request for a hearing on an objection
596 must be filed with the Department of Revenue within fifteen (15)
597 days from the first date of publication of the notice of such
598 application under Section 67-1-53. If the department determines
599 that the permit should be denied, notice will be provided to the
600 applicant as set out in subsection (1) of this section, and if the
601 applicant timely requests a hearing on the denial as provided by
602 this subsection (5), the department will advise the Executive
603 Director of the Board of Tax Appeals and the applicant of the
604 written request for a hearing on an objection to the permit. The
605 hearing on the objection to the permit and the hearing on the
606 appeal by the applicant from the denial of the department of the
607 application shall be consolidated and heard by the Board of Tax
608 Appeals at the same time. If the department determines that the
609 permit should be issued, the department will advise the applicant
610 and the Executive Director of the Board of Tax Appeals of the
611 timely written request for a hearing on an objection to the
612 application and a hearing will be set before the Board of Tax
613 Appeals on this objection. If prior to the hearing, either the
614 person requesting the hearing withdraws his request or the
615 applicant withdraws his application, the hearing will be cancelled



616 and the objection proceedings before the Board of Tax Appeals on
617 the application will be dismissed as moot. In the case of such
618 withdrawals, the Board of Tax Appeals is authorized to assess to
619 either or both parties any costs incurred by it prior to such
620 withdrawal. The Department of Revenue retains authority to issue
621 the permit to the applicant where the person objecting to the
622 application withdraws his request for a hearing.

623 (6) Any person objecting to an application for approval by
624 the Department of Revenue of a area or locality as a qualified
625 resort area under this chapter and who timely requests in writing
626 a hearing on his objection shall be given a hearing before the
627 Board of Tax Appeals unless approval of the application is denied
628 by the Department of Revenue and an appeal is not taken by the
629 applicant or the county or municipality in which the proposed
630 qualified resort area is located to the Board of Tax Appeals from
631 that denial or the applicant withdraws his application. Any
632 written request for a hearing on an objection must be filed with
633 the Department of Revenue within fifteen (15) days from the first
634 date of publication of the notice of such application as provided
635 by regulation. If the department determines that the application
636 for approval of the proposed area or locality as a qualified
637 resort area should be denied, the department will proceed with
638 denial of such application as set out in subsection (3) of this
639 section, and if the applicant or the county or municipality in
640 which the proposed qualified resort area is located timely



641 requests a hearing on the denial as provided by subsection (3) of
642 this section, the department will advise the Executive Director of
643 the Board of Tax Appeals and the applicant of the written request
644 for a hearing on an objection to the application. The hearing on
645 the objection to approval of the proposed qualified resort area
646 and the hearing on the appeal from the denial of the department of
647 the application for such approval shall be consolidated and heard
648 by the Board of Tax Appeals at the same time. If the department
649 determines that the proposed qualified resort area should be
650 approved, the department will advise the applicant and the
651 Executive Director of the Board of Tax Appeals of the timely
652 written request for a hearing on an objection to the application
653 and a hearing will be set before the Board of Tax Appeals on this
654 objection. If prior to the hearing, either the person requesting
655 the hearing withdraws his request or the applicant withdraws his
656 application, the hearing will be cancelled and the objection
657 proceedings before the Board of Tax Appeals on the application
658 will be dismissed as moot. In the case of such withdrawals, the
659 Board of Tax Appeals is authorized to assess to either or both
660 parties any costs incurred by it prior to such withdrawal. The
661 Department of Revenue retains authority to approve the proposed
662 area or locality as a qualified resort area where the person
663 objecting to the application withdraws his request for a hearing.

664 (7) Any person having an interest in any alcoholic
665 beverages, powdered alcohol, light wine, beer or raw materials



666 which the Department of Revenue intends to dispose of under
667 Section 67-1-18 shall be given reasonable notice of this proposed
668 disposal, and upon such notice, this person may request a hearing
669 before the Board of Tax Appeals to establish his right or claim to
670 this property. This request for a hearing shall be filed with the
671 Board of Tax Appeals, with a copy sent to the Department of
672 Revenue, within fifteen (15) days from the date of receipt of the
673 notice provided above by the person filing the request. If a
674 request is not received by the Board of Tax Appeals within this
675 fifteen-day period, the department may order the property disposed
676 of in accordance with Section 67-1-18.

677 (8) Upon receipt of a written request for hearing or appeal
678 as set out above, the executive director shall schedule a hearing
679 before the Board of Tax Appeals on this request or appeal. A
680 notice of the hearing shall be mailed to all persons or entities
681 having an interest in the matter being heard which shall always
682 include the person or entity filing the request or appeal for
683 which the hearing is being set, the applicant or holder of any
684 permit, approved manager status or qualified resort area status in
685 issue, any person who filed a written request for a hearing on an
686 objection to any application in issue and the Department of
687 Revenue. This notice shall provide the date, time and location of
688 the hearing. Mailing to the attorney representing a person or
689 entity in the matter being heard shall be the same as mailing to
690 the person or entity the attorney represents. Failure of the



691 person or entity on whose request or appeal the matter was set for
692 hearing to appear personally or through his designated
693 representative at the hearing shall constitute an involuntary
694 withdrawal of his request or appeal. Upon such withdrawal, the
695 Board of Tax Appeals shall note on the record the failure of the
696 person or entity to appear at the hearing and shall dismiss the
697 request or appeal and remand the matter back to the Department of
698 Revenue for appropriate action.

699 (9) At any hearing before the Board of Tax Appeals on an
700 appeal or hearing request as set out above, two (2) members of the
701 Board of Tax Appeals shall constitute a quorum. At the hearing,
702 the Board of Tax Appeals shall try the issues presented according
703 to law and the facts and pursuant to any guidelines established by
704 regulation. The rules of evidence shall be relaxed at the hearing
705 and the hearing shall be recorded by a court reporter. After
706 reaching a decision on the issues presented, the Board of Tax
707 Appeals shall enter an order setting forth its findings and
708 decision in the matter. A copy of the order of the Board of Tax
709 Appeals shall be mailed to the person or entity filing the request
710 or appeal which was heard, the applicant or holder of any permit,
711 approved manager status or qualified resort area status in issue,
712 any person who filed a written request for a hearing on an
713 objection to any application in issue and the Department of
714 Revenue to notify them of the findings and decision of the Board
715 of Tax Appeals.



716 **SECTION 6.** Section 67-1-93, Mississippi Code of 1972, is
717 amended as follows:

718 67-1-93. (1) Except as otherwise provided in Section
719 67-1-99, when any property, other than an alcoholic beverage,
720 powdered alcohol or raw material, is seized under this chapter or
721 Chapter 31 of Title 97, Mississippi Code of 1972, proceedings
722 under this section shall be instituted promptly.

723 (2) A petition for forfeiture shall be filed promptly in the
724 name of the State of Mississippi with the clerk of the circuit or
725 county court of the county in which the seizure is made. A copy
726 of such petition shall be served upon the following persons by
727 service of process in the same manner as in civil cases:

728 (a) The owner of the property, if address is known;

729 (b) Any secured party who has registered his lien or
730 filed a financing statement as provided by law, if the identity of
731 such secured party can be ascertained by the agent or agency which
732 seized the property making a good faith effort to ascertain the
733 identity of such secured party as described in subsections (3),
734 (4), (5), (6) and (7) of this section;

735 (c) Any other bona fide lienholder or secured party or
736 other person holding an interest in the property in the nature of
737 a security interest of whom the agent or agency has actual
738 knowledge; and

739 (d) Any person in possession of property subject to
740 forfeiture at the time that it was seized.



741 (3) If the property is a motor vehicle susceptible of
742 titling under the Mississippi Motor Vehicle Title Law and if there
743 is any reasonable cause to believe that the vehicle has been
744 titled, the agent or agency shall make inquiry of the * * *
745 Department of Revenue as to what the records of the * * *
746 Department of Revenue show as to who is the record owner of the
747 vehicle and who, if anyone, holds any lien or security interest
748 which affects the vehicle.

749 (4) If the property is a motor vehicle and is not titled in
750 the State of Mississippi then the agent or agency shall attempt to
751 ascertain the name and address of the person in whose name the
752 vehicle is licensed, and if the vehicle is licensed in a state
753 which has in effect a certificate of title law, the agent or
754 agency shall make inquiry of the appropriate agency of that state
755 to determine through such agency's records the name of the record
756 owner of the vehicle and who, if anyone, holds any lien, security
757 interest or other instrument in the nature of a security device
758 which affects the vehicle.

759 (5) If the property is of a nature that a financing
760 statement is required by the laws of this state to be filed to
761 perfect a security interest affecting the property and if there is
762 any reasonable cause to believe that a financing statement
763 covering the security interest has been filed under the laws of
764 this state, the agent or agency shall make inquiry of the
765 appropriate office designated in Section 75-9-501 to determine



766 through the records of such office the name of the record owner of
767 the property and who, if anyone, has filed a financing statement
768 affecting the property.

769 (6) If the property is an aircraft or part thereof and if
770 there is any reasonable cause to believe that an instrument in the
771 nature of a security device affects the property, then the agent
772 or agency shall make inquiry of the Administrator of the Federal
773 Aviation Administration to determine through records of the
774 administrator the name of the record owner of the property and
775 who, if anyone, holds an instrument in the name of a security
776 device which affects the property.

777 (7) In the case of all other property other than an
778 alcoholic beverage, powdered alcohol or raw material subject to
779 forfeiture, if there is any reasonable cause to believe that an
780 instrument in the nature of a security device affects the
781 property, then the agent or agency shall make a good faith inquiry
782 to identify the holder of any such instrument.

783 (8) In the event the answer to an inquiry states that the
784 record owner of the property is any person other than the person
785 who was in possession of it when it was seized, or states that any
786 person holds any lien, security interest or other interest in the
787 nature of a security interest which affects the property, the
788 agent or agency shall cause any record owner and also any
789 lienholder, secured party or other person who holds an interest in
790 the property in the nature of a security interest which affects



791 the property to be named in the petition of forfeiture and to be
792 served with process in the same manner as in civil cases.

793 (9) If the owner of the property cannot be found and served
794 with a copy of the petition of forfeiture, or if no person was in
795 possession of the property subject to forfeiture at the time that
796 it was seized and the owner of the property is unknown, the agent
797 or agency shall file with the clerk of the court in which the
798 proceeding is pending an affidavit to such effect, whereupon the
799 clerk of the court shall publish notice of the hearing addressed
800 to "the Unknown Owner of _____," filling in the blank
801 space with a reasonably detailed description of the property
802 subject to forfeiture. Service by publication shall be made in
803 accordance with the Mississippi Rules of Civil Procedure.

804 (10) No proceedings instituted pursuant to the provisions of
805 this chapter shall proceed to hearing unless the judge conducting
806 the hearing is satisfied that this section has been complied with.
807 Any answer received from an inquiry required by subsections (3)
808 through (7) of this section shall be introduced into evidence at
809 the hearing.

810 **SECTION 7.** Section 67-1-95, Mississippi Code of 1972, is
811 amended as follows:

812 67-1-95. (1) An owner of property seized, other than an
813 owner of alcoholic beverages, powdered alcohol or raw materials,
814 shall file a verified answer within twenty (20) days after the
815 completion of service of process. If no answer is filed, the



816 court shall hear evidence that the property is subject to
817 forfeiture and forfeit the property to the agency which seized the
818 property. If an answer is filed, a time for hearing on forfeiture
819 shall be set within thirty (30) days of filing the answer or at
820 the succeeding term of court if court would not be in progress
821 within thirty (30) days after filing the answer. Provided,
822 however, that upon request by the agent or agency, or the owner of
823 the property, the court may postpone the forfeiture hearing to a
824 date past the time any criminal action is pending against such
825 owner.

826 (2) If the owner of the property has filed a verified answer
827 denying that the property is subject to forfeiture, then the
828 burden is on the state to prove that the property is subject to
829 forfeiture; however, if no answer has been filed by the owner of
830 the property, the petition for forfeiture may be introduced into
831 evidence and shall be prima facie evidence that the property is
832 subject to forfeiture.

833 (3) At the hearing any claimant of any right, title or
834 interest in the property may prove his lien, security interest or
835 other interest in the nature of a security interest, to be bona
836 fide and created without knowledge or consent that the property
837 was to be used so as to cause the property to be subject to
838 forfeiture.

839 (4) If it is found that the property is subject to
840 forfeiture, then the judge shall forfeit the property to the



841 agency which seized the property. If proof at the hearing
842 discloses that the interest of any bona fide lienholder, secured
843 party or other person holding an interest in the property in the
844 nature of a security interest is greater than or equal to the
845 present value of the property, the court shall order the property
846 released to him. If such interest is less than the present value
847 of the property and if the proof shows that the property is
848 subject to forfeiture the court shall order the property forfeited
849 to the agency.

850 (5) Upon a petition filed in the name of the State of
851 Mississippi with the clerk of the circuit or county court of the
852 county in which the seizure is made, the court having jurisdiction
853 may order the property summarily forfeited except when lawful
854 possession and title can be ascertained. If a person is found to
855 have had lawful possession and title prior to seizure, the court
856 shall order the property returned to the owner, if the owner so
857 desires.

858 **SECTION 8.** Section 67-1-97, Mississippi Code of 1972, is
859 amended as follows:

860 67-1-97. (1) All property other than alcoholic beverages,
861 powdered alcohol or raw materials that have been forfeited shall
862 be sold at a public auction for cash by the agency which seized
863 such property to the highest and best bidder after advertising the
864 sale for at least once each week for three (3) consecutive weeks,
865 the last notice to appear not more than ten (10) days nor less



866 than five (5) days prior to such sale, in a newspaper having a
867 general circulation throughout the State of Mississippi. Such
868 notices shall contain a description of the property to be sold and
869 a statement of the time and place of the sale. It shall not be
870 necessary to the validity of such sale either to have the property
871 present at the place of the sale or to have the name of the owner
872 thereof stated in such notice. The proceeds of the sale shall be
873 delivered to the court clerk and shall be disposed of as follows:

874 (a) To any bona fide lienholder, secured party or other
875 party holding an interest in the property in the nature of a
876 security interest, to the extent of his interest; and

877 (b) The balance, if any, after deduction of all storage
878 and court costs, shall be forwarded to the State Treasurer and
879 deposited with and used as general funds of the state.

880 (2) (a) Any county or municipal law enforcement agency
881 which seizes property, other than alcoholic beverages, powdered
882 alcohol or raw materials, may maintain, repair, use and operate
883 for official purposes all such property that has been forfeited if
884 it is free from any interest of a bona fide lienholder, secured
885 party or other party who holds an interest in the property in the
886 nature of a security interest. Such county or municipal law
887 enforcement agency may purchase the interest of a bona fide
888 lienholder, secured party or other party who holds an interest so
889 that the property can be released for its use. If the property is
890 a motor vehicle susceptible of titling under the Mississippi Motor



891 Vehicle Title Law, the law enforcement agency shall be deemed to
892 be the purchaser, and the certificate of title shall be issued to
893 it as required by subsection (4) of this section.

894 (b) All other property that a county or municipal law
895 enforcement agency seizes, other than alcoholic beverages,
896 powdered alcohol and raw materials, and other than property which
897 such law enforcement agency retains for use and operation for
898 official purposes, shall, upon its forfeiture, be sold by such law
899 enforcement agency in the same manner and subject to the same
900 procedure for the sale of such property as provided for in
901 subsection (1) of this section; however, the proceeds of such sale
902 shall be delivered to the clerk of the county or municipality for
903 disposal in the following manner:

904 (i) To any bona fide lienholder, secured party or
905 other party holding an interest in the property in the nature of a
906 security interest, to the extent of his interest; and

907 (ii) The balance, if any, after deduction of all
908 storage and court costs, shall be forwarded to the clerk of the
909 county or municipality, as the case may be, and deposited with and
910 used as general funds of the county or municipality.

911 (3) All other agencies which have seized all such property
912 other than alcoholic beverages, powdered alcohol and raw materials
913 may maintain, repair, use and operate for official purposes all
914 property that has been forfeited to them if such property is free
915 from any interest of a bona fide lienholder, secured party or



916 other party who holds an interest in the property in the nature of
917 a security interest. In such case, the agency may purchase the
918 interest of a bona fide lienholder, secured party or other party
919 who holds an interest so that the property can be released for use
920 by such agency.

921 Such agency may maintain, repair, use and operate the
922 property with money appropriated for current operations. If the
923 property is a motor vehicle susceptible of titling under the
924 Mississippi Motor Vehicle Title Law, such agency is deemed to be
925 the purchaser and the certificate of title shall be issued to it
926 as required by subsection (4) of this section.

927 (4) The * * * Department of Revenue shall issue a
928 certificate of title to any person who purchases property under
929 the provisions of this section when a certificate of title is
930 required under the laws of this state.

931 **SECTION 9.** Section 67-1-99, Mississippi Code of 1972, is
932 amended as follows:

933 67-1-99. (1) Property subject to forfeiture, other than
934 alcoholic beverages, powdered alcohol or raw materials, as
935 described by Section 67-1-17 and having a value of Two Thousand
936 Five Hundred Dollars (\$2,500.00) or less may be forfeited by the
937 administrative forfeiture procedures provided for in this section.

938 (2) The seizing law enforcement agency shall provide notice
939 of intention to forfeit the seized property administratively, by



940 certified mail, return receipt required, to all persons who are
941 required to be notified pursuant to Section 67-1-93.

942 (3) In the event that notice of administrative forfeiture
943 cannot be given as provided in subsection (2) of this section
944 because of refusal, failure to claim, insufficient address or any
945 other reason the seizing law enforcement agency shall provide
946 notice by publication in a newspaper of general circulation in the
947 county in which the seizure took place once a week for three (3)
948 consecutive weeks.

949 (4) Notice pursuant to subsections (2) and (3) of this
950 section shall include the following information:

951 (a) A description of the property;

952 (b) The approximate value of the property;

953 (c) The date and place of the seizure;

954 (d) The connection between the property and the
955 violation of the Local Option ABC Laws or Chapter 31, Title 97,
956 Mississippi Code of 1972;

957 (e) The instructions for filing a request for judicial
958 review; and

959 (f) A statement that the property will be forfeited to
960 the seizing law enforcement agency if a request for judicial
961 review is not timely filed.

962 (5) Persons claiming an interest in the seized property may
963 initiate judicial review of the seizure and proposed forfeiture by
964 filing a written request for judicial review with the chief law



965 enforcement officer of the seizing law enforcement agency within
966 thirty (30) days after receipt of the certified letter or within
967 thirty (30) days after the first publication of notice, whichever
968 is applicable.

969 (6) If no request for judicial review is timely filed, the
970 seizing law enforcement agency shall prepare a written declaration
971 of forfeiture of the subject property and the forfeited property
972 shall be used, disposed of, or distributed in accordance with the
973 provision of Section 67-1-97.

974 (7) Upon receipt of a timely request for judicial review,
975 the attorney for the seizing law enforcement agency shall promptly
976 file a petition for forfeiture and proceed as provided in Section
977 67-1-93.

978 **SECTION 10.** This act shall take effect and be in force from
979 and after its passage.

