

By: Senator(s) Chassaniol

To: Finance

SENATE BILL NO. 2820

1 AN ACT TO AMEND SECTION 27-71-307, MISSISSIPPI CODE OF 1972,
 2 TO APPLY THE EXCISE TAX ON BEER TO BEER PROVIDED ON THE PREMISES
 3 OF A BREWERY FOR THE PURPOSE OF TASTING OR SAMPLING; TO AMEND
 4 SECTION 67-3-47, MISSISSIPPI CODE OF 1972, TO MAKE IT CLEAR THAT
 5 THE HOLDER OF A LICENSE TO OPERATE A BREWERY MUST KEEP AN ACCURATE
 6 ACCOUNTING OF THE AMOUNT OF BEER PROVIDED AND CONSUMED AS SAMPLES;
 7 TO AMEND SECTION 67-3-74, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
 8 ENFORCEMENT OFFICERS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF
 9 THE DEPARTMENT OF REVENUE TO ENFORCE THE PROVISIONS OF LAW THAT
 10 AUTHORIZE THE TASTING OR SAMPLING OF BEER ON THE PREMISES OF A
 11 BREWERY; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-71-307, Mississippi Code of 1972, is
 14 amended as follows:

15 27-71-307. (1) (a) In addition to the specific tax imposed
 16 in Section 27-71-303, there is hereby imposed, levied, assessed
 17 and shall be collected, as hereinafter provided, an excise or
 18 privilege tax upon each person engaged or continuing in the
 19 business of wholesaler or distributor of light wines or beer
 20 equivalent to Forty-two and Sixty-eight One-hundredths Cents
 21 (42.68¢) per gallon upon all light wines and beer acquired for
 22 sale or distribution in this state. * * * The excise or privilege



23 tax is also imposed at the same rate upon each gallon of light
24 wine or beer manufactured by brewpubs, each of which shall
25 accurately and reliably measure the quantity of light wine and
26 beer produced by using a measuring device such as a meter or gauge
27 glass or any other suitable method approved by the commissioner.
28 The tax is also imposed on each gallon of beer provided for the
29 purpose of tasting or sampling as authorized in Section
30 67-3-47. * * * The tax is hereby imposed as an additional tax for
31 the privilege of engaging or continuing in business.

32 (b) The excise tax imposed in this section shall be
33 paid to the * * * Department of Revenue monthly on or before the
34 fifteenth day of the month following the month in which the beer
35 or light wine was manufactured or received in this state or the
36 month following the date the beer was provided for tasting or
37 sampling as authorized in Section 67-3-47. Monthly report forms
38 shall be furnished by the commissioner to the wholesalers,
39 distributors, manufacturer and brewpubs.

40 (c) * * * Persons operating a railroad dining car, club
41 car or other car in interstate commerce upon which light wines or
42 beer may be sold and who are licensed under the provisions of
43 Section 67-3-27 and any other law relating to the sale of such
44 beverages shall keep * * * records of the sales of * * * light
45 wines and beer in this state as the commissioner shall prescribe
46 and shall submit monthly reports of * * * those sales to the
47 commissioner within fifteen (15) days after the end of each month



48 on a form prescribed * * * for that purpose by the commissioner,
49 and shall pay the tax due under the provisions of this section at
50 the time * * * the reports are filed.

51 No official crowns, lids, labels or stamps with the word
52 "MISSISSIPPI" or "MS" imprinted thereon or any other evidence of
53 tax payment is required by this section, or may be required under
54 rule or regulation promulgated by the commissioner, to be affixed
55 on or to any part of a beer, light wine or malt cooler bottle, can
56 or other light wine or malt cooler container. For purposes of
57 this section, malt cooler products shall be defined as a flavored
58 malt beverage made from a base of malt beverage and flavored with
59 fruit juices, aromatics and essences of other flavoring in
60 quantities and proportions such that the resulting product
61 possesses a character and flavor distinctive from the base malt
62 beverage and distinguishable from other malt beverages.

63 (2) A licensed wholesaler or distributor of beer or light
64 wine may not import beer or light wine from any source other than
65 a brewer or importer authorized by the commissioner to sell such
66 beer or light wine in Mississippi. Any person who violates the
67 provisions of this subsection, upon conviction thereof, shall be
68 punished by a fine of not more than One Thousand Dollars
69 (\$1,000.00) or by imprisonment in the county jail for not more
70 than six (6) months, or by both such fine and imprisonment, in the
71 discretion of the court and shall be subject to license forfeiture



72 following an appropriate hearing before the * * * Department of
73 Revenue.

74 (3) The wholesaler or distributor shall be allowed credit
75 for tax paid on beer or light wine which is no longer marketable
76 and which is destroyed by same when * * * the destruction is
77 witnessed by an agent of the commissioner and when the amount of
78 the excise tax exceeds One Hundred Dollars (\$100.00). No other
79 loss will be allowed.

80 A brewpub shall be allowed credit for light wine or beer
81 which has passed through the meter, gauge glass or other approved
82 measuring device and which has been soured or damaged. The
83 brewpub shall record the removal of sour or damaged light wine or
84 beer and may take credit after the destruction is witnessed by an
85 agent of the commissioner and when the amount of excise tax
86 exceeds Twenty-five Dollars (\$25.00). No other loss shall be
87 allowed.

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

93 (5) All administrative provisions of the Mississippi Sales
94 Tax Law, including those which fix damages, penalties and interest
95 for nonpayment of taxes and for noncompliance with the provisions
96 of * * * that law, and all other requirements and duties imposed



97 upon taxpayers, shall apply to all persons liable for taxes under
98 the provisions of this chapter, and the commissioner shall
99 exercise all the power and authority and perform all the duties
100 with respect to taxpayers under this chapter as are provided in
101 the sales tax law except where there is conflict, then the
102 provisions of this chapter shall control.

103 **SECTION 2.** Section 67-3-47, Mississippi Code of 1972, is
104 amended as follows:

105 67-3-47. (1) A person having a permit to manufacture or
106 brew beer under this chapter and who operates a brewery may offer
107 and provide limited amounts of beer on the premises of the brewery
108 for the purpose of tasting or sampling, subject to the following
109 conditions:

110 (a) The beer provided for tasting or sampling must be
111 manufactured in the State of Mississippi by the holder of the
112 permit;

113 (b) The beer may be provided only to persons on the
114 premises of the brewery at no cost and for consumption on the
115 premises of the brewery;

116 (c) The beer may be provided for tasting or sampling
117 between the hours of 8:00 a.m. and 10:00 p.m. on the same day and
118 only in conjunction with a structured tour of the brewery and
119 related facilities which must include the entire manufacturing and
120 brewing processes and methods used at the brewery;



121 (d) No one under twenty-one (21) years of age may
122 participate in the tasting or sampling, and a sign indicating that
123 prohibition shall be placed in a visible location at the entrance
124 to the area where the tasting or sampling will be conducted;

125 (e) An individual size sample of beer shall not exceed
126 six (6) ounces, and no more than six (6) samples of beer may be
127 provided to an individual within a twenty-four-hour period; and

128 (f) The holder of the license operating the brewery
129 shall keep an accurate accounting of the * * * amount of beer
130 provided and consumed as samples.

131 (2) For the purposes of this section, the term "brewery"
132 means and has the same definition as that term has in 26 USCS
133 5402.

134 **SECTION 3.** Section 67-3-74, Mississippi Code of 1972, is
135 amended as follows:

136 67-3-74. (1) In addition to peace officers within their
137 jurisdiction, all enforcement officers of the Alcoholic Beverage
138 Control Division of the Department of Revenue are authorized to
139 enforce the provisions of Section 67-3-47 and the provisions made
140 unlawful by Sections 67-3-13, 67-3-15, 67-3-53, 67-3-57 and
141 67-3-70; * * * however, * * * the provisions prohibiting the sale
142 of light wine or beer to persons under the age of twenty-one (21)
143 years shall be enforced by the division as provided for in this
144 section.



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

150 (b) Upon receipt of such complaint or information, the
151 Alcoholic Beverage Control Division shall notify the permit holder
152 of the complaint by certified mail to the primary business office
153 of such permit holder or by hand delivery of the complaint or
154 information to the primary business office of such holder, except
155 in cases where the complaint or information is received from any
156 law enforcement officer.

157 (c) If an enforcement officer of the Alcoholic Beverage
158 Control Division enters the business of the holder of the permit
159 to investigate a complaint and discovers a violation, the agent
160 shall notify the person that committed the violation and the
161 holder of the permit:

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

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

168 **SECTION 4.** This act shall take effect and be in force from
169 and after July 1, 2016.

