

By: Senator(s) Hopson, Blount, Moran

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2552

1 AN ACT TO AMEND SECTION 67-3-48, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE LIMIT ON RETAIL SALES BY SMALL CRAFT BREWERIES THAT IS
3 EQUAL TO THE LESSER OF 10% OR 1,500 BARRELS OF BEER AND LIGHT WINE
4 PRODUCED ANNUALLY; TO AMEND SECTIONS 67-3-22 AND 67-3-69,
5 MISSISSIPPI CODE OF 1972, TO REMOVE THE PROHIBITIONS AGAINST, AND
6 PENALTIES FOR, BREWPUBS SELLING BEER AND LIGHT WINE AWAY FROM
7 THEIR PREMISES AND PACKAGING BEER AND LIGHT WINE SO THAT THEY MAY
8 BE CARRIED AWAY FROM THEIR PREMISES; TO AMEND SECTION 27-71-301,
9 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF BREWPUB
10 ACCORDINGLY; TO BRING FORWARD SECTIONS 67-3-48.1 AND 27-71-303,
11 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
12 AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 67-3-48, Mississippi Code of 1972, is
15 amended as follows:

16 67-3-48. (1) A small craft brewery may sell at retail light
17 wine or beer produced at its brewery for consumption on the
18 premises of the brewery and consumption off the premises of the
19 brewery if the sales are made on the premises of the brewery and
20 the light wine or beer products offered for sale are also made
21 available for sale to wholesalers.

22 (2) (a) A small craft brewery * * * must sell the light
23 wine or beer * * * produced at its brewery at a price



24 approximating retail prices generally charged for identical
25 beverages in the county where the brewery is located.

26 (b) A small craft brewery shall not make retail sales
27 of more than five hundred seventy-six (576) ounces, in the
28 aggregate, of light wine or beer to any one (1) individual for
29 consumption off the premises of the brewery within a
30 twenty-four-hour period.

31 (c) The limits on sales provided for in this subsection
32 shall not apply to beer provided pursuant to Section 67-3-47.

33 (3) A small craft brewery shall take commercially reasonable
34 steps to ensure that light wine or beer products sold for
35 consumption off the premises of the brewery are being sold for
36 personal use and not for resale and are not being sold to anyone
37 holding a retail permit for the purpose of resale in their
38 establishment.

39 (4) A small craft brewery shall not make retail sales of
40 contract-brewed beer.

41 (5) A small craft brewery shall not mail or ship light wine
42 or beer to a consumer.

43 **SECTION 2.** Section 67-3-22, Mississippi Code of 1972, is
44 amended as follows:

45 67-3-22. (1) The production limits for a brewpub shall be
46 based upon production as determined by the Department of Revenue
47 pursuant to Section 27-71-307, Mississippi Code of 1972, and a



48 brewpub shall not manufacture more than seventy-five thousand
49 (75,000) gallons of light wine or beer per calendar year.

50 (2) Light wine or beer produced at a brewpub shall not be
51 sold at a price less than it cost to manufacture such light wine
52 or beer.

53 * * *

54 (* * *3) A brewpub shall be required to offer for sale
55 light wine or beer that is normally carried on the inventory of
56 wholesalers or distributors of light wine or beer.

57 **SECTION 3.** Section 67-3-69, Mississippi Code of 1972, is
58 amended as follows:

59 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
60 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
61 this chapter or of any rule or regulation of the commissioner,
62 shall be a misdemeanor and, where the punishment therefor is not
63 elsewhere prescribed in this section, shall be punished by a fine
64 of not more than Five Hundred Dollars (\$500.00) or imprisonment
65 for not more than six (6) months, or both, in the discretion of
66 the court. If any person so convicted shall be the holder of any
67 permit or license issued by the commissioner under authority of
68 this chapter, the permit or license shall from and after the date
69 of such conviction be void and the holder thereof shall not
70 thereafter, for a period of one (1) year from the date of such
71 conviction, be entitled to any permit or license for any purpose
72 authorized by this chapter. Upon conviction of the holder of any



73 permit or license, the appropriate law enforcement officer shall
74 seize the permit or license and transmit it to the commissioner.

75 (2) (a) Any person who shall violate any provision of
76 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a
77 misdemeanor, and upon conviction thereof shall be punished by a
78 fine of not more than Five Hundred Dollars (\$500.00) or by
79 imprisonment in the county jail for not more than six (6) months,
80 or by both such fine and imprisonment, in the discretion of the
81 court.

82 (b) Any person who shall violate any provision of
83 Section 67-3-57 shall be guilty of a misdemeanor, and upon
84 conviction thereof, shall be punished by a fine of not more than
85 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
86 jail for not more than one (1) year, or by both, in the discretion
87 of the court. Any person convicted of violating any provision of
88 the sections referred to in this subsection shall forfeit his
89 permit, and shall not thereafter be permitted to engage in any
90 business taxable under the provisions of Sections 27-71-301
91 through 27-71-347.

92 (3) If the holder of a permit, or the employee of the holder
93 of a permit, shall be convicted of selling any beer or wine to
94 anyone who is visibly intoxicated from the licensed premises or to
95 any person under the age of twenty-one (21) years from the
96 licensed premises in violation of Section 67-3-53(b), then, in
97 addition to any other penalty provided for by law, the



98 commissioner may impose the following penalties against the holder
99 of a permit:

100 (a) For the first offense on the licensed premises, by
101 a fine of not less than Five Hundred Dollars (\$500.00) nor more
102 than One Thousand Dollars (\$1,000.00) and/or suspension of the
103 permit for not more than three (3) months.

104 (b) For a second offense occurring on the licensed
105 premises within twelve (12) months of the first offense, by a fine
106 of not less than Five Hundred Dollars (\$500.00) nor more than Two
107 Thousand Dollars (\$2,000.00) and/or suspension of the permit for
108 not more than six (6) months.

109 (c) For a third offense occurring on the licensed
110 premises within twelve (12) months of the first, by a fine of not
111 less than Two Thousand Dollars (\$2,000.00) nor more than Five
112 Thousand Dollars (\$5,000.00) and/or suspension or revocation of
113 the permit to sell beer or light wine.

114 (d) For a fourth or subsequent offense occurring on the
115 licensed premises within twelve (12) months of the first, by a
116 fine of not less than Two Thousand Dollars (\$2,000.00) nor more
117 than Five Thousand Dollars (\$5,000.00) and/or suspension or
118 revocation of the permit to sell beer or light wine.

119 (4) A person who sells any beer or wine to a person under
120 the age of twenty-one (21) years shall not be guilty of a
121 violation of Section 67-3-53(b) if the person under the age of
122 twenty-one (21) years represents himself to be twenty-one (21)



123 years of age or older by displaying an apparently valid
124 Mississippi driver's license containing a physical description
125 consistent with his appearance or by displaying some other
126 apparently valid identification document containing a picture and
127 physical description consistent with his appearance for the
128 purpose of inducing the person to sell beer or wine to him.

129 * * *

130 (* * *5) If a small craft brewery is convicted of violating
131 the provisions of Section 67-3-48, then, in addition to any other
132 provision provided for by law, the small craft brewery shall be
133 punished as follows:

134 (a) For the first offense, the small craft brewery may
135 be fined in an amount not to exceed Five Hundred Dollars
136 (\$500.00).

137 (b) For a second offense occurring within twelve (12)
138 months of the first offense, the small craft brewery may be fined
139 an amount not to exceed One Thousand Dollars (\$1,000.00).

140 (c) For a third or subsequent offense occurring within
141 twelve (12) months of the first offense, the small craft brewery
142 may be fined an amount not to exceed Five Thousand Dollars
143 (\$5,000.00) and the permit to operate as a manufacturer shall be
144 suspended for thirty (30) days.

145 **SECTION 4.** Section 67-3-48.1, Mississippi Code of 1972, is
146 brought forward as follows:



147 67-3-48.1 (1) In the event a small craft brewery is
148 acquired by an entity that manufactures light wine or beer that
149 does not fall within the definition of the term "small craft
150 brewery," the entity that acquired the small craft brewery may
151 continue to operate the brewery as a small craft brewery for as
152 long as the acquired facility meets the definition of the term
153 "small craft brewery"; however, the limit in Section 67-3-3 on the
154 amount of barrels of light wine or beer that a small craft brewery
155 may produce shall not apply to light wine or beer that is not
156 produced by the acquired small craft brewery.

157 (2) In the event a small craft brewery acquires an entity
158 that manufactures light wine or beer that does not fall within the
159 definition of the term "small craft brewery," the small craft
160 brewery that acquired the entity may continue to operate as a
161 small craft brewery for as long as the brewery meets the
162 definition of the term "small craft brewery." The light wine or
163 beer produced by the entity that is acquired by a small craft
164 brewery shall not apply to the limit in Section 67-3-3 on the
165 amount of light wine or beer that the small craft brewery may
166 produce.

167 (3) A small craft brewery described in subsections (1) and
168 (2) of this section may continue to sell at retail brands the
169 small craft brewery produces on its premises at all locations at
170 which it was selling the brands at retail at the time of the
171 acquisition; however, the small craft brewery may not sell at



172 retail brands produced by the entity that acquired it or by the
173 entity it acquires, as the case may be.

174 **SECTION 5.** Section 27-71-301, Mississippi Code of 1972, is
175 amended as follows:

176 27-71-301. When used in this article the words and terms
177 hereafter mentioned shall have the following definitions:

178 (a) "State Auditor" means the State Auditor of Public
179 Accounts of the State of Mississippi or any legally appointed
180 deputy, clerk or agent.

181 (b) "Person" includes all natural persons or
182 corporations, a partnership, an association, a joint venture, an
183 estate, a trust, or any other group or combination acting as a
184 unit and shall include the plural as well as the singular unless
185 an intention to give another meaning thereto is disclosed in the
186 context.

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

192 (d) "Retailer" means any person who comes into the
193 possession of such light wines or beer for the purpose of selling
194 it to the consumer, or giving it away, or exposing it where it may
195 be taken or purchased or acquired in any other manner by the
196 consumer; however, the term "retailer" shall not include a person



197 who offers and provides beer on the premises of a brewery for the
198 purpose of tasting or sampling as authorized in Section 67-3-47.

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

203 (f) "Commissioner" means the Commissioner of Revenue of
204 the Department of Revenue or his duly appointed agents or
205 employees.

206 (g) "Sale" includes the exchange of such light wines or
207 beer for money, or giving away or distributing any such light
208 wines or beer for anything of value; however, the term "sale"
209 shall not include beer offered and provided on the premises of a
210 brewery for the purpose of tasting or sampling as authorized in
211 Section 67-3-47.

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

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



221 (j) "Brewpub" means the premises of any location in
222 which light wine or beer is manufactured or brewed, for retail
223 sale if the total amount of light wine or beer produced on the
224 premises does not exceed the production limitation imposed in
225 Section 67-3-22, and the light wine or beer is produced for
226 consumption on the premises * * *, although without prohibition on
227 sales for off-premises consumption.

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

232 (l) "Small craft brewery" shall have the meaning
233 ascribed to such term in Section 67-3-3.

234 (m) "Manufacturer" means a person who brews beer at a
235 brewery; however, the term does not include "brewpubs."

236 **SECTION 6.** Section 27-71-303, Mississippi Code of 1972, is
237 brought forward as follows:

238 27-71-303. Upon each person approved for a permit to engage
239 in the business of selling light wines or beer there is hereby
240 imposed, levied and assessed, to be collected and paid as herein
241 provided, annual privilege taxes in the following amounts:

- 242 (a) Retailers--for each place of
243 business.....\$ 30.00
- 244 (b) Wholesalers or distributors--for each
245 county.....\$ 100.00



- 246 (c) Manufacturers--for each place of
- 247 business.....\$1,000.00
- 248 (d) Brewpubs--for each place of
- 249 business.....\$1,000.00

250 Upon each person operating an airline, bus, boat or railroad
251 car upon which light wines or beer may be sold there is hereby
252 imposed, levied and assessed, to be collected and paid, annual
253 privilege taxes of Thirty Dollars (\$30.00) for each airplane, bus,
254 boat or railroad car so operated in this state.

255 Provided, however, the amount of the privilege tax to be paid
256 for a permit issued for a period of less than twelve (12) months
257 shall be that proportionate amount of the annual privilege tax
258 that the number of months, or part of a month, remaining until its
259 expiration date bears to twelve (12) months, but in no case shall
260 the privilege tax be less than Ten Dollars (\$10.00).

261 **SECTION 7.** This act shall take effect and be in force from
262 and after July 1, 2020.

