

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2493

1 AN ACT TO CREATE NEW SECTION 67-3-75, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE ENFORCEMENT OFFICERS OF THE ALCOHOLIC BEVERAGE
3 CONTROL DIVISION OF THE STATE TAX COMMISSION TO ASSIST IN THE
4 ENFORCEMENT OF THE LAW REGULATING LIGHT WINE AND BEER; TO AMEND
5 SECTIONS 67-1-37, 67-3-31 AND 67-3-37, MISSISSIPPI CODE OF 1972,
6 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

8 SECTION 1. The following provision shall be codified as
9 Section 67-3-75, Mississippi Code of 1972:

10 67-3-75. In addition to peace officers within their
11 jurisdiction, all enforcement officers of the Alcoholic Beverage
12 Control Division of the State Tax Commission are authorized to
13 enforce the provisions of this chapter.

14 SECTION 2. Section 67-1-37, Mississippi Code of 1972, is
15 amended as follows:

16 67-1-37. The State Tax Commission, under its duties and
17 powers with respect to the Alcoholic Beverage Control Division
18 therein, shall have the following powers, functions and duties:

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

23 (b) To revoke, suspend or cancel, for violation of or
24 noncompliance with the provisions of this chapter, or the law
25 governing the production and sale of native wines, or any lawful
26 rules and regulations of the commission issued hereunder, or for
27 other sufficient cause, any permit issued by it under the
28 provisions of this chapter; however, no such permit shall be

29 revoked, suspended or cancelled except after a hearing of which
30 the permit holder shall have been given reasonable notice and an
31 opportunity to be heard. The board shall be authorized to suspend
32 the permit of any permit holder for being out of compliance with
33 an order for support, as defined in Section 93-11-153. The
34 procedure for suspension of a permit for being out of compliance
35 with an order for support, and the procedure for the reissuance or
36 reinstatement of a permit suspended for that purpose, and the
37 payment of any fees for the reissuance or reinstatement of a
38 permit suspended for that purpose, shall be governed by Section
39 93-11-157 or 93-11-163, as the case may be. If there is any
40 conflict between any provision of Section 93-11-157 or 93-11-163
41 and any provision of this chapter, the provisions of Section
42 93-11-157 or 93-11-163, as the case may be, shall control.

43 (c) To prescribe forms of permits and applications for
44 permits and of all reports which it deems necessary in
45 administering this chapter.

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

50 (e) To issue rules regulating the advertising of
51 alcoholic beverages in the state in any class of media and
52 permitting advertising of the retail price of alcoholic beverages.

53 (f) To issue reasonable rules and regulations, not
54 inconsistent with the federal laws or regulations, requiring
55 informative labeling of all alcoholic beverages offered for sale
56 within this state and providing for the standards of fill and
57 shapes of retail containers of alcoholic beverages; however, such
58 containers shall not contain less than fifty (50) milliliters by
59 liquid measure.

60 (g) Subject to the provisions of subsection (3) of
61 Section 67-1-51, to issue rules and regulations governing the

62 issuance of retail permits for premises located near or around
63 schools, colleges, universities, churches and other public
64 institutions, and specifying the distances therefrom within which
65 no such permit shall be issued. The Alcoholic Beverage Control
66 Division shall not allow the sale or consumption of alcoholic
67 beverages in or on the campus of any public school or college, and
68 no alcoholic beverage shall be for sale or consumed at any public
69 athletic event at any grammar or high school or any college.

70 (h) To adopt and promulgate, repeal and amend, such
71 rules, regulations, standards, requirements and orders, not
72 inconsistent with this chapter or any law of this state or of the
73 United States, as it deems necessary to control the manufacture,
74 importation, transportation, distribution and sale of alcoholic
75 liquor, whether intended for beverage or nonbeverage use in a
76 manner not inconsistent with the provisions of this chapter or any
77 other statute, including the native wine laws.

78 (i) To call upon other administrative departments of
79 the state, county and municipal governments, county and city
80 police departments and upon prosecuting officers for such
81 information and assistance as it may deem necessary in the
82 performance of its duties.

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

89 (k) To inspect, or cause to be inspected, any premises
90 where alcoholic liquors intended for sale are manufactured,
91 stored, distributed or sold, and to examine or cause to be
92 examined all books and records pertaining to the business
93 conducted therein.

94 (1) In the conduct of any hearing authorized to be held
95 by the commission, to hear testimony and take proof material for
96 its information in the discharge of its duties under this chapter;
97 to issue subpoenas, which shall be effective in any part of this
98 state, requiring the attendance of witnesses and the production of
99 books and records; to administer or cause to be administered
100 oaths; and to examine or cause to be examined any witness under
101 oath. Any court of record, or any judge thereof, may by order
102 duly entered require the attendance of witnesses and the
103 production of relevant books subpoenaed by the commission, and
104 such court or judge may compel obedience to its or his order by
105 proceedings for contempt.

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

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

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

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

126 (q) To adopt and promulgate rules and regulations for
127 suspension or revocation of identification cards of employees of
128 permittees for violations of the alcoholic beverage control laws,
129 rules or regulations.

130 (r) To enforce the provisions of Chapter 3, Title 67,
131 Mississippi Code of 1972.

132 SECTION 3. Section 67-3-31, Mississippi Code of 1972, is
133 amended as follows:

134 67-3-31. Proceedings for the revocation or suspension of any
135 permit authorizing the sale of beer or wine at retail for a
136 violation of any of the provisions of Section 67-3-53 may be
137 brought in the circuit or county court of the county in which the
138 licensed premises are located. Such proceedings shall be entitled
139 in the name of the state and against the permittee and shall be
140 instituted by filing a complaint with the clerk of the court. The
141 complaint may be filed by the county prosecuting attorney of the
142 county upon his own initiative or, then by the district attorney
143 of the district in which the county is located, and it shall be
144 mandatory upon the county prosecuting attorney, or district
145 attorney as the case may be, to file a complaint when requested to
146 do so by a peace officer or any person as hereinafter provided.
147 Any peace officer or any enforcement officer of the Alcoholic
148 Beverage Control Division who learns that a retail permittee
149 within his jurisdiction has violated any of the provisions of such
150 section shall file with the county prosecuting attorney of the
151 county in which the licensed premises are located, or, then with
152 the district attorney of the district in which such county is
153 located, an affidavit specifying in detail the facts alleged to
154 constitute such violation, and requesting that a complaint be
155 filed against the permittee for the revocation or suspension of
156 his permit. A like affidavit may be filed with the county
157 prosecuting attorney, or district attorney as the case may be, by
158 any person who resides, and has for at least one (1) year prior

159 thereto resided within the county in which the licensed premises
160 are located requesting that a complaint be filed for the
161 revocation or suspension of the permittee's permit. Promptly upon
162 receiving any such affidavit the county prosecuting attorney, or
163 district attorney, shall prepare a proper complaint, which shall
164 be signed and sworn to by the person or persons filing the
165 affidavit with him, and the county prosecuting attorney or
166 district attorney shall file the complaint with the clerk of the
167 circuit or county court.

168 SECTION 4. Section 67-3-37, Mississippi Code of 1972, is
169 amended as follows:

170 67-3-37. It shall be the duty of the county prosecuting
171 attorney or the district attorney, as the case may be, to file
172 complaints as provided in Section 67-3-31 and to prosecute
173 diligently and without delay all complaints filed by him.

174 It shall be the duty of all peace officers * * *, within
175 their jurisdiction, and all enforcement officers of the Alcoholic
176 Beverage Control Division to enforce the provisions of Section
177 67-3-53 and they shall frequently visit all licensed premises
178 within their jurisdiction to determine whether such permittees are
179 complying with the laws. They shall promptly investigate all
180 complaints made to them by any citizen relative to any alleged
181 violations of such section within their jurisdiction. When any
182 peace officer or enforcement officer of the Alcoholic Beverage
183 Control Division has knowledge of a violation of such section
184 committed by a permittee within his jurisdiction, it shall be his
185 duty forthwith to file an affidavit with the county prosecuting
186 attorney or district attorney requesting that a complaint be filed
187 for the revocation or suspension of the permit of the permittee.

188 SECTION 5. This act shall take effect and be in force from
189 and after its passage.