

By: Senator(s) Minor

To: Finance

## SENATE BILL NO. 2890

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION  
2 67-3-74, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ENFORCEMENT  
3 OFFICERS OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF THE STATE  
4 TAX COMMISSION TO ASSIST IN THE ENFORCEMENT OF CERTAIN PROVISIONS  
5 OF THE LAW REGULATING LIGHT WINE AND BEER; TO AMEND SECTION  
6 67-3-29, MISSISSIPPI CODE OF 1972, TO ALLOW THE REVOCATION OF A  
7 PERMIT OF A RETAILER FOR THE SALE OF LIGHT WINE OR BEER TO A  
8 PERSON UNDER THE AGE OF 21 ONLY AFTER THERE HAS BEEN A CONVICTION  
9 OF THE PERMIT HOLDER OR AN EMPLOYEE OF THE PERMIT HOLDER FOR SUCH  
10 SALE; TO AMEND SECTIONS 67-1-81, 67-3-69 AND 67-3-70, MISSISSIPPI  
11 CODE OF 1972, TO PROVIDE THAT A TRIAL JUDGE SHALL SUSPEND THE  
12 DRIVER'S LICENSE OF A MINOR WHO UNLAWFULLY POSSESSES OR PURCHASES  
13 ALCOHOLIC BEVERAGES, BEER OR LIGHT WINE IN LIEU OF CONVICTION FOR  
14 SUCH OFFENSES; TO PROVIDE THAT THE JUDGE MAY PLACE THE MINOR ON  
15 PROBATION DURING THE PERIOD OF THE DRIVER'S LICENSE SUSPENSION,  
16 SUBJECT SUCH CONDITIONS AS THE JUDGE DEEMS APPROPRIATE; TO  
17 INCREASE THE PENALTY FOR POSSESSION OF ALCOHOLIC BEVERAGES, LIGHT  
18 WINE OR BEER; TO INCREASE THE PENALTY FOR UNLAWFUL SALE OF LIGHT  
19 WINE OR BEER; TO AMEND SECTIONS 67-1-37, 67-3-31 AND 67-3-37,  
20 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO PROVIDE THAT  
21 THE ENFORCEMENT AUTHORITY GRANTED TO OFFICERS OF THE DIVISION  
22 SHALL BE REPEALED ON JULY 1, 2002; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** The following provision shall be codified as  
25 Section 67-3-74, Mississippi Code of 1972:

26 67-3-74. (1) In addition to peace officers within their  
27 jurisdiction, all enforcement officers of the Alcoholic Beverage  
28 Control Division of the State Tax Commission are authorized to  
29 enforce the provisions made unlawful by Sections 67-3-13, 67-3-15,  
30 67-3-53 and 67-3-70; provided, however, that the provisions  
31 prohibiting the sale of light wine or beer to persons under the  
32 age of twenty-one (21) years shall be enforced by the division as  
33 provided for in this section.

34 (2) The Alcoholic Beverage Control Division shall  
35 investigate violations of the laws prohibiting the sale of light  
36 wine or beer to persons under the age of twenty-one (21) years  
37 only upon receipt of a written complaint from a person stating



that they have knowledge of such violation. Upon receipt of such a complaint, the Alcoholic Beverage Control Division shall notify the permit holder of the complaint by certified mail to the primary business office of such holder, and inform the holder of the permit that the Alcoholic Beverage Control Division intends to investigate the complaint. If an enforcement officer of the Alcoholic Beverage Control Division enters the business of the holder of the permit to investigate a complaint and discovers a violation, the agent shall notify the person that committed the violation before he leaves such business.

(3) The provisions of this section shall be repealed on July 1, 2003.

**SECTION 2.** Section 67-3-29, Mississippi Code of 1972, is amended as follows:

67-3-29. (1) The commissioner shall revoke any permit granted by authority of this chapter to any person who shall violate any of the provisions of this chapter or the revenue laws of this state relating to engaging in transporting, storing, selling, distributing, possessing, receiving or manufacturing of wines or beers, or any person who shall hereafter be convicted of the unlawful sale of intoxicating liquor, or any person who shall allow or permit any form of illegal gambling or immorality on the premises described in such permit. The commissioner shall revoke a permit of a retailer for the sale of light wine or beer to a person under the age of twenty-one (21) years only after there has been a conviction of the permit holder or an employee of the permit holder of such violation.

(2) If any person exercising any privilege taxable under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972, shall willfully neglect or refuse to comply with the provisions of such chapter, or any rules or regulations promulgated by the commissioner under authority of such chapter, or the provisions of this chapter, the commissioner shall be authorized to revoke the



71 permit theretofore issued to such person, after giving to such  
72 person ten (10) days notice of the intention of the commissioner  
73 to revoke such permit. The commissioner may, however, suspend  
74 such permit instead of revoking same if, in his opinion,  
75 sufficient cause is shown for a suspension rather than revocation.  
76 Any person whose permit shall have been revoked by the  
77 commissioner shall be thereafter prohibited from exercising any  
78 privilege under the provisions of Chapter 71 of Title 27,  
79 Mississippi Code of 1972, for a period of two (2) years from the  
80 date of such revocation. The commissioner may, however, for good  
81 cause shown, grant a new permit upon such conditions as the  
82 commissioner may prescribe. Any person whose permit shall have  
83 been suspended by the commissioner shall be prohibited from  
84 exercising any privilege under the provisions of Chapter 71 of  
85 Title 27, Mississippi Code of 1972, during the period of such  
86 suspension. Failure of such person to comply with the terms of  
87 the suspension shall be cause for revocation of his permit, in  
88 addition to the other penalties provided by law.

89 (3) In addition to the reasons specified in this section and  
90 other provisions of this chapter, the commissioner shall be  
91 authorized to suspend the permit of any permit holder for being  
92 out of compliance with an order for support, as defined in Section  
93 93-11-153. The procedure for suspension of a permit for being out  
94 of compliance with an order for support, and the procedure for the  
95 reissuance or reinstatement of a permit suspended for that  
96 purpose, and the payment of any fees for the reissuance or  
97 reinstatement of a permit suspended for that purpose, shall be  
98 governed by Section 93-11-157 or Section 93-11-163, as the case  
99 may be. If there is any conflict between any provision of Section  
100 93-11-157 or Section 93-11-163 and any provision of this chapter,  
101 the provisions of Section 93-11-157 or 93-11-163, as the case may  
102 be, shall control.



103       **SECTION 3.** Section 67-1-81, Mississippi Code of 1972, is  
104 amended as follows:

105       67-1-81. (1) Any permittee or other person who shall sell,  
106 furnish, dispose of, give, or cause to be sold, furnished,  
107 disposed of, or given, any alcoholic beverage to any person under  
108 the age of twenty-one (21) years shall be guilty of a misdemeanor  
109 and shall be punished by a fine of not less than Five Hundred  
110 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)  
111 for a first offense. For a second or subsequent offense, such  
112 permittee or other person shall be punished by a fine of not less  
113 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand  
114 Dollars (\$2,000.00), or by imprisonment for not more than one (1)  
115 year, or by both such fine and imprisonment in the discretion of  
116 the court. Upon conviction of a second offense under the  
117 provisions of this section the permit of any permittee so  
118 convicted shall be automatically and permanently revoked.

119       (2) Any person under the age of twenty-one (21) years who  
120 purchases, receives, or has in his or her possession in any public  
121 place, any alcoholic beverages, shall be guilty of a misdemeanor  
122 and shall be punished by a fine of not more than One Hundred  
123 Dollars (\$100.00). Provided, that clearing or busing tables that  
124 have glasses or other containers that contain or did contain  
125 alcoholic beverages, or stocking, bagging or otherwise handling  
126 purchases of alcoholic beverages shall not be deemed possession of  
127 alcoholic beverages for the purposes of this section. Provided  
128 further, that a person who is at least eighteen (18) years of age  
129 but under the age of twenty-one (21) years who waits on tables by  
130 taking orders for or delivering orders of alcoholic beverages  
131 shall not be deemed to unlawfully possess or furnish alcoholic  
132 beverages if in the scope of his employment by the holder of an  
133 on-premises retailer's permit. This exception shall not authorize  
134 a person under the age of twenty-one (21) to tend bar or act in  
135 the capacity of bartender. Any person under the age of twenty-one



(21) who knowingly makes a false statement to the effect that he or she is twenty-one (21) years old or older to any person engaged in the sale of alcoholic beverages for the purpose of obtaining the same shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), and a sentence to not more than thirty (30) days' community service.

(3) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(4) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of purchasing, receiving or having in his or her possession in any public place any alcoholic beverages in violation of subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under subsection (2) of this section, shall suspend the minor's driver's license by taking and keeping it in the custody of the court for a period of time not to exceed ninety (90) days. The judge so ordering the suspension shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR \_\_\_\_\_ DAYS IN LIEU OF CONVICTION" and such action by the trial judge shall not constitute a conviction. During the period that the minor's driver's license is suspended, the trial judge shall suspend the imposition of any fines or penalties that may be imposed under subsection (2) of this section and may place the minor on probation subject to such conditions as the judge deems appropriate. If the minor violates any of the conditions of probation, then the trial judge shall return the driver's license to the minor and impose the fines, penalties or both, that he would have otherwise imposed, and such action shall constitute a conviction.

**SECTION 4.** Section 67-3-69, Mississippi Code of 1972, is amended as follows:



67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,  
67-3-27, 67-3-55 and 67-3-57, any violation of any provision of  
this chapter or of any rule or regulation of the commissioner,  
shall be a misdemeanor and, where the punishment therefor is not  
elsewhere prescribed herein, shall be punished by a fine of not  
less than Two Hundred Dollars (\$200.00) nor more than Five Hundred  
Dollars (\$500.00) or imprisonment for not more than six (6)  
months, or both, in the discretion of the court. If any person so  
convicted shall be the holder of any permit or license issued by  
the commissioner under authority of this chapter, such permit or  
license shall from and after the date of such conviction be void  
and the holder thereof shall not thereafter, for a period of one  
(1) year from the date of such conviction, be entitled to any  
permit or license for any purpose authorized by this chapter.  
Upon conviction of the holder of any permit or license, the  
appropriate law enforcement officer shall seize the permit or  
license and transmit it to the commissioner.

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

(b) Any person who shall violate any provision of  
Section 67-3-57 shall be guilty of a misdemeanor, and upon  
conviction thereof, shall be punished by a fine of not more than  
One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
jail for not more than one (1) year, or by both, in the discretion  
of the court. Any person convicted of violating any provision of  
the sections referred to in this subsection shall forfeit his  
permit, and shall not thereafter be permitted to engage in any



business taxable under the provisions of Sections 27-71-301 through 27-71-347.

(3) If the holder of a permit, or the employee of the holder of a permit, shall be convicted of selling any beer or wine to any person under the age of twenty-one (21) years from the licensed premises in violation of Section 67-3-53(b), then, in addition to any other penalty provided for by law, the holder of the permit may be punished as follows:

(a) For the first offense on the licensed premises, the holder of the permit may be fined in an amount not to exceed Five Hundred Dollars (\$500.00) and/or the sale of beer or wine on the premises from which the sale occurred may be prohibited for three (3) months.

(b) For a second offense occurring on the licensed premises within twelve (12) months of the first offense, the holder of the permit may be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) and/or the sale of beer or wine on the premises from which the sale occurred may be prohibited for six (6) months.

(c) For a third or subsequent offense occurring on the licensed premises within twelve (12) months of the first, the holder of the permit may be fined in an amount not to exceed Five Thousand Dollars (\$5,000.00) and/or the sale of beer or wine on the premises from which the sale occurred may be prohibited for one (1) year.

(4) A person who sells any beer or wine to a person under the age of twenty-one (21) years shall not be guilty of a violation of Section 67-3-53(b) if the person under the age of twenty-one (21) years represents himself to be twenty-one (21) years of age or older by displaying an apparently valid Mississippi driver's license containing a physical description consistent with his appearance or by displaying some other apparently valid identification document containing a picture and



physical description consistent with his appearance for the purpose of inducing the person to sell beer or wine to him.

(5) If the holder of a permit to operate a brewpub is convicted of violating the provisions of Section 67-3-22(3), then, in addition to any other provision provided for by law, the holder of the permit shall be punished as follows:

(a) For the first offense, the holder of a permit to operate a brewpub may be fined in an amount not to exceed Five Hundred Dollars (\$500.00).

(b) For a second offense occurring within twelve (12) months of the first offense, the holder of a permit to operate a brewpub may be fined an amount not to exceed One Thousand Dollars (\$1,000.00).

(c) For a third or subsequent offense occurring within twelve (12) months of the first offense, the holder of a permit to operate a brewpub may be fined an amount not to exceed Five Thousand Dollars (\$5,000.00) and the permit to operate a brewpub shall be suspended for thirty (30) days.

**SECTION 5.** Section 67-3-70, Mississippi Code of 1972, is amended as follows:

67-3-70. (1) Except as otherwise provided by Section 67-3-54, any person under the age of twenty-one (21) years who purchases or possesses any light wine or beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days' community service.

(2) Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any light wine or beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than





267 Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars  
268 (\$500.00) and/or a sentence to not more than thirty (30) days  
269 community service.

270 (3) Except as otherwise provided by Section 67-3-54, any  
271 person who knowingly purchases light wine or beer for, or gives or  
272 makes available light wine or beer to a person under the age of  
273 twenty-one (21) years, shall be guilty of a misdemeanor and upon  
274 conviction shall be punished by a fine of not less than One  
275 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars  
276 (\$500.00) and/or a sentence to not more than thirty (30) days  
277 community service.

278 (4) The term "community service" as used in this section  
279 shall mean work, projects or services for the benefit of the  
280 community assigned, supervised and recorded by appropriate public  
281 officials.

282 (5) If a person under the age of twenty-one (21) years is  
283 convicted or enters a plea of guilty of violating subsection (1)  
284 or subsection (2) of this section, the trial judge, in lieu of the  
285 penalties otherwise provided under this section, shall suspend the  
286 minor's driver's license by taking and keeping it in the custody  
287 of the court for a period of time not to exceed ninety (90) days.  
288 The judge so ordering the suspension shall enter upon his docket  
289 "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR            DAYS IN LIEU OF  
290 CONVICTION" and such action by the trial judge shall not  
291 constitute a conviction. During the period that the minor's  
292 driver's license is suspended, the trial judge shall suspend the  
293 imposition of any fines or penalties that may be imposed under  
294 this section and may place the minor on probation subject to such  
295 conditions as the judge deems appropriate. If the minor violates  
296 any of the conditions of probation, then the trial judge shall  
297 return the driver's license to the minor and impose the fines,  
298 penalties, or both, that he would have otherwise imposed, and such  
299 action shall constitute a conviction.



(6) Any person who has been charged with a violation of subsections (1) or (2) of this section may, not sooner than one (1) year after the dismissal and discharge or completion of any sentence and/or payment of any fine, apply to the court for an order to expunge from all official records all recordation relating to his arrest, trial, finding or plea of guilty, and dismissal and discharge. If the court determines that such person was dismissed and the proceedings against him discharged or that such person had satisfactorily served his sentence and/or paid his fine, it shall enter such order.

**SECTION 6.** Section 67-1-37, Mississippi Code of 1972, is amended as follows:

**[Until July 1, 2003, this section will read as follows:]**

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

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

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the commission issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this chapter; however, no such permit shall be revoked, suspended or cancelled except after a hearing of which the permit holder shall have been given reasonable notice and an opportunity to be heard. The board shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or



333 reinstatement of a permit suspended for that purpose, and the  
334 payment of any fees for the reissuance or reinstatement of a  
335 permit suspended for that purpose, shall be governed by Section  
336 93-11-157 or Section 93-11-163, as the case may be. If there is  
337 any conflict between any provision of Section 93-11-157 or Section  
338 93-11-163 and any provision of this chapter, the provisions of  
339 Section 93-11-157 or Section 93-11-163, as the case may be, shall  
340 control.

341 (c) To prescribe forms of permits and applications for  
342 permits and of all reports which it deems necessary in  
343 administering this chapter.

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

348 (e) To issue rules regulating the advertising of  
349 alcoholic beverages in the state in any class of media and  
350 permitting advertising of the retail price of alcoholic beverages.

351 (f) To issue reasonable rules and regulations, not  
352 inconsistent with the federal laws or regulations, requiring  
353 informative labeling of all alcoholic beverages offered for sale  
354 within this state and providing for the standards of fill and  
355 shapes of retail containers of alcoholic beverages; however, such  
356 containers shall not contain less than fifty (50) milliliters by  
357 liquid measure.

358 (g) Subject to the provisions of subsection (3) of  
359 Section 67-1-51, to issue rules and regulations governing the  
360 issuance of retail permits for premises located near or around  
361 schools, colleges, universities, churches and other public  
362 institutions, and specifying the distances therefrom within which  
363 no such permit shall be issued. The alcoholic beverage control  
364 division shall not allow the sale or consumption of alcoholic  
365 beverages in or on the campus of any public school or college, and



no alcoholic beverage shall be for sale or consumed at any public athletic event at any grammar or high school or any college.

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

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

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

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

(l) In the conduct of any hearing authorized to be held by the commission, to hear testimony and take proof material for its information in the discharge of its duties under this chapter; to issue subpoenas, which shall be effective in any part of this state, requiring the attendance of witnesses and the production of books and records; to administer or cause to be administered oaths; and to examine or cause to be examined any witness under



oath. Any court of record, or any judge thereof, may by order duly entered require the attendance of witnesses and the production of relevant books subpoenaed by the commission, and such court or judge may compel obedience to its or his order by proceedings for contempt.

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

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

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

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

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

(r) To enforce the provisions made unlawful by Sections 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

**[From and after July 1, 2003, this section will read as follows:]**



432           67-1-37. The State Tax Commission, under its duties and  
433 powers with respect to the Alcoholic Beverage Control Division  
434 therein, shall have the following powers, functions and duties:

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

439           (b) To revoke, suspend or cancel, for violation of or  
440 noncompliance with the provisions of this chapter, or the law  
441 governing the production and sale of native wines, or any lawful  
442 rules and regulations of the commission issued hereunder, or for  
443 other sufficient cause, any permit issued by it under the  
444 provisions of this chapter; however, no such permit shall be  
445 revoked, suspended or cancelled except after a hearing of which  
446 the permit holder shall have been given reasonable notice and an  
447 opportunity to be heard. The board shall be authorized to suspend  
448 the permit of any permit holder for being out of compliance with  
449 an order for support, as defined in Section 93-11-153. The  
450 procedure for suspension of a permit for being out of compliance  
451 with an order for support, and the procedure for the reissuance or  
452 reinstatement of a permit suspended for that purpose, and the  
453 payment of any fees for the reissuance or reinstatement of a  
454 permit suspended for that purpose, shall be governed by Section  
455 93-11-157 or 93-11-163, as the case may be. If there is any  
456 conflict between any provision of Section 93-11-157 or 93-11-163  
457 and any provision of this chapter, the provisions of Section  
458 93-11-157 or 93-11-163, as the case may be, shall control.

459           (c) To prescribe forms of permits and applications for  
460 permits and of all reports which it deems necessary in  
461 administering this chapter.

462           (d) To fix standards, not in conflict with those  
463 prescribed by any law of this state or of the United States, to



464 secure the use of proper ingredients and methods of manufacture of  
465 alcoholic beverages.

466 (e) To issue rules regulating the advertising of  
467 alcoholic beverages in the state in any class of media and  
468 permitting advertising of the retail price of alcoholic beverages.

469 (f) To issue reasonable rules and regulations, not  
470 inconsistent with the federal laws or regulations, requiring  
471 informative labeling of all alcoholic beverages offered for sale  
472 within this state and providing for the standards of fill and  
473 shapes of retail containers of alcoholic beverages; however, such  
474 containers shall not contain less than fifty (50) milliliters by  
475 liquid measure.

476 (g) Subject to the provisions of subsection (3) of  
477 Section 67-1-51, to issue rules and regulations governing the  
478 issuance of retail permits for premises located near or around  
479 schools, colleges, universities, churches and other public  
480 institutions, and specifying the distances therefrom within which  
481 no such permit shall be issued. The alcoholic beverage control  
482 division shall not allow the sale or consumption of alcoholic  
483 beverages in or on the campus of any public school or college, and  
484 no alcoholic beverage shall be for sale or consumed at any public  
485 athletic event at any grammar or high school or any college.

486 (h) To adopt and promulgate, repeal and amend, such  
487 rules, regulations, standards, requirements and orders, not  
488 inconsistent with this chapter or any law of this state or of the  
489 United States, as it deems necessary to control the manufacture,  
490 importation, transportation, distribution and sale of alcoholic  
491 liquor, whether intended for beverage or nonbeverage use in a  
492 manner not inconsistent with the provisions of this chapter or any  
493 other statute, including the native wine laws.

494 (i) To call upon other administrative departments of  
495 the state, county and municipal governments, county and city  
496 police departments and upon prosecuting officers for such



information and assistance as it may deem necessary in the performance of its duties.

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

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

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

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

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





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

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

542           (q) To adopt and promulgate rules and regulations for  
543 suspension or revocation of identification cards of employees of  
544 permittees for violations of the alcoholic beverage control laws,  
545 rules or regulations.

546           **SECTION 7.** Section 67-3-31, Mississippi Code of 1972, is  
547 amended as follows:

548           **[Until July 1, 2003, this section will read as follows:]**

549           67-3-31. Proceedings for the revocation or suspension of any  
550 permit authorizing the sale of beer or wine at retail for a  
551 violation of any of the provisions of Section 67-3-53 may be  
552 brought in the circuit or county court of the county in which the  
553 licensed premises are located. Such proceedings shall be entitled  
554 in the name of the state and against the permittee and shall be  
555 instituted by filing a complaint with the clerk of the court. The  
556 complaint may be filed by the county prosecuting attorney of the  
557 county upon his own initiative or, then by the district attorney  
558 of the district in which the county is located, and it shall be  
559 mandatory upon the county prosecuting attorney, or district  
560 attorney as the case may be, to file a complaint when requested to  
561 do so by a peace officer or any person as hereinafter provided.  
562 Any peace officer within his jurisdiction or any enforcement



563 officer of the Alcoholic Beverage Control Division within the  
564 State Tax Commission who learns that a retail permittee within his  
565 jurisdiction has violated any of the provisions of such section  
566 shall file with the county prosecuting attorney of the county in  
567 which the licensed premises are located, or, then with the  
568 district attorney of the district in which such county is located,  
569 an affidavit specifying in detail the facts alleged to constitute  
570 such violation, and requesting that a complaint be filed against  
571 the permittee for the revocation or suspension of his permit. A  
572 like affidavit may be filed with the county prosecuting attorney,  
573 or district attorney as the case may be, by any person who  
574 resides, and has for at least one (1) year prior thereto resided  
575 within the county in which the licensed premises are located  
576 requesting that a complaint be filed for the revocation or  
577 suspension of the permittee's permit. Promptly upon receiving any  
578 such affidavit the county prosecuting attorney, or district  
579 attorney, shall prepare a proper complaint, which shall be signed  
580 and sworn to by the person or persons filing the affidavit with  
581 him, and the county prosecuting attorney or district attorney  
582 shall file the complaint with the clerk of the circuit or county  
583 court.

584 **[From and after July 1, 2003, this section will read as**  
585 **follows:]**

586 67-3-31. Proceedings for the revocation or suspension of any  
587 permit authorizing the sale of beer or wine at retail for a  
588 violation of any of the provisions of Section 67-3-53 may be  
589 brought in the circuit or county court of the county in which the  
590 licensed premises are located. Such proceedings shall be entitled  
591 in the name of the state and against the permittee and shall be  
592 instituted by filing a complaint with the clerk of the court. The  
593 complaint may be filed by the county prosecuting attorney of the  
594 county upon his own initiative or, then by the district attorney  
595 of the district in which the county is located, and it shall be



596 mandatory upon the county prosecuting attorney, or district  
597 attorney as the case may be, to file a complaint when requested to  
598 do so by a peace officer or any person as hereinafter provided.  
599 Any peace officer who learns that a retail permittee within his  
600 jurisdiction has violated any of the provisions of such section  
601 shall file with the county prosecuting attorney of the county in  
602 which the licensed premises are located, or, then with the  
603 district attorney of the district in which such county is located,  
604 an affidavit specifying in detail the facts alleged to constitute  
605 such violation, and requesting that a complaint be filed against  
606 the permittee for the revocation or suspension of his permit. A  
607 like affidavit may be filed with the county prosecuting attorney,  
608 or district attorney as the case may be, by any person who  
609 resides, and has for at least one (1) year prior thereto resided  
610 within the county in which the licensed premises are located  
611 requesting that a complaint be filed for the revocation or  
612 suspension of the permittee's permit. Promptly upon receiving any  
613 such affidavit the county prosecuting attorney, or district  
614 attorney, shall prepare a proper complaint, which shall be signed  
615 and sworn to by the person or persons filing the affidavit with  
616 him, and the county prosecuting attorney or district attorney  
617 shall file the complaint with the clerk of the circuit or county  
618 court.

619       **SECTION 8.** Section 67-3-37, Mississippi Code of 1972, is  
620 amended as follows:

621       **[Until July 1, 2003, this section will read as follows:]**

622       67-3-37. It shall be the duty of the county prosecuting  
623 attorney or the district attorney, as the case may be, to file  
624 complaints as provided in Section 67-3-31 and to prosecute  
625 diligently and without delay all complaints filed by him.

626       It shall be the duty of all peace officers \* \* \*, within  
627 their jurisdiction, and all enforcement officers of the Alcoholic  
628 Beverage Control Division of the State Tax Commission to enforce



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

**[From and after July 1, 2003, this section will read as follows:]**

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

It shall be the duty of all peace officers to enforce, within their jurisdiction, the provisions of Section 67-3-53 and they shall frequently visit all licensed premises within their jurisdiction to determine whether such permittees are complying with the laws. They shall promptly investigate all complaints made to them by any citizen relative to any alleged violations of such section within their jurisdiction. When any peace officer has knowledge of a violation of such section committed by a permittee within his jurisdiction, it shall be his duty forthwith to file an affidavit with the county prosecuting attorney or district attorney requesting that a complaint be filed for the revocation or suspension of the permit of the permittee.

**SECTION 9.** This act shall take effect and be in force from and after its passage.

