

By: Senator(s) Minor

To: Finance

COMMITTEE SUBSTITUTE
FOR
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 PROVIDE THAT THE STATE TAX
7 COMMISSION MAY REVOKE OR SUSPEND A PERMIT OF A RETAILER FOR THE
8 SALE OF LIGHT WINE OR BEER TO A PERSON UNDER THE AGE OF 21 ONLY
9 UNTIL THERE HAS BEEN A CONVICTION OF THE PERMIT HOLDER OR AN
10 EMPLOYEE OF THE PERMIT HOLDER FOR SUCH SALE; TO AMEND SECTIONS
11 67-1-81, 67-3-69 AND 67-3-70, MISSISSIPPI CODE OF 1972, TO PROVIDE
12 THAT A TRIAL JUDGE SHALL SUSPEND THE DRIVER'S LICENSE OF A MINOR
13 WHO UNLAWFULLY POSSESSES OR PURCHASES ALCOHOLIC BEVERAGES, BEER OR
14 LIGHT WINE IN LIEU OF CONVICTION FOR SUCH OFFENSES; TO PROVIDE
15 THAT THE JUDGE MAY PLACE THE MINOR ON PROBATION DURING THE PERIOD
16 OF THE DRIVER'S LICENSE SUSPENSION, SUBJECT SUCH CONDITIONS AS THE
17 JUDGE DEEMS APPROPRIATE; TO INCREASE THE PENALTY FOR POSSESSION OF
18 ALCOHOLIC BEVERAGES, LIGHT WINE OR BEER; TO INCREASE THE PENALTY
19 FOR UNLAWFUL SALE OF LIGHT WINE OR BEER; TO AMEND SECTIONS
20 67-1-37, 67-3-31 AND 67-3-37, MISSISSIPPI CODE OF 1972, IN
21 CONFORMITY THERETO; TO PROVIDE THAT THE ENFORCEMENT AUTHORITY
22 GRANTED TO OFFICERS OF THE DIVISION SHALL BE REPEALED ON JULY 1,
23 2002; AND FOR RELATED PURPOSES.

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

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

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

35 (2) The Alcoholic Beverage Control Division shall
36 investigate violations of the laws prohibiting the sale of light
37 wine or beer to persons under the age of twenty-one (21) years



38 upon receipt of a complaint or information from a person stating
39 that they have knowledge of such violation. Upon receipt of such
40 complaint or information, the Alcoholic Beverage Control Division
41 shall notify the permit holder of the complaint by certified mail
42 to the primary business office of such permit holder or by hand
43 delivery of the complaint or information to the primary business
44 office of such holder, except in cases where the complaint or
45 information is received from any law enforcement officer. If an
46 enforcement officer of the Alcoholic Beverage Control Division
47 enters the business of the holder of the permit to investigate a
48 complaint and discovers a violation, the agent shall notify the
49 person that committed the violation before he leaves such
50 business.

51 (3) The provisions of this section shall be repealed on July
52 1, 2003.

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

55 67-3-29. (1) The commissioner shall revoke any permit
56 granted by authority of this chapter to any person who shall
57 violate any of the provisions of this chapter or the revenue laws
58 of this state relating to engaging in transporting, storing,
59 selling, distributing, possessing, receiving or manufacturing of
60 wines or beers, or any person who shall hereafter be convicted of
61 the unlawful sale of intoxicating liquor, or any person who shall
62 allow or permit any form of illegal gambling or immorality on the
63 premises described in such permit. The commissioner shall not
64 revoke or suspend a permit of a retailer for the sale of light
65 wine or beer to a person under the age of twenty-one (21) years
66 until there has been a conviction of the permit holder or an
67 employee of the permit holder for such violation.

68 (2) If any person exercising any privilege taxable under the
69 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,
70 shall willfully neglect or refuse to comply with the provisions of



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

92 (3) In addition to the reasons specified in this section and
93 other provisions of this chapter, the commissioner shall be
94 authorized to suspend the permit of any permit holder for being
95 out of compliance with an order for support, as defined in Section
96 93-11-153. The procedure for suspension of a permit for being out
97 of compliance with an order for support, and the procedure for the
98 reissuance or reinstatement of a permit suspended for that
99 purpose, and the payment of any fees for the reissuance or
100 reinstatement of a permit suspended for that purpose, shall be
101 governed by Section 93-11-157 or Section 93-11-163, as the case
102 may be. If there is any conflict between any provision of Section
103 93-11-157 or Section 93-11-163 and any provision of this chapter,



the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

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

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

(2) Any person under the age of twenty-one (21) years who purchases, receives, or has in his or her possession in any public place, any alcoholic beverages, 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). Provided, that clearing or busing tables that have glasses or other containers that contain or did contain alcoholic beverages, or stocking, bagging or otherwise handling purchases of alcoholic beverages shall not be deemed possession of alcoholic beverages for the purposes of this section. Provided further, that a person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if in the scope of his employment by the holder of an on-premises retailer's



137 permit. This exception shall not authorize a person under the age
138 of twenty-one (21) to tend bar or act in the capacity of
139 bartender. Any person under the age of twenty-one (21) who
140 knowingly makes a false statement to the effect that he or she is
141 twenty-one (21) years old or older to any person engaged in the
142 sale of alcoholic beverages for the purpose of obtaining the same
143 shall be guilty of a misdemeanor and shall be punished by a fine
144 of not less than Two Hundred Dollars (\$200.00) nor more than Five
145 Hundred Dollars (\$500.00), and a sentence to not more than thirty
146 (30) days' community service.

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

151 (4) If a person under the age of twenty-one (21) years is
152 convicted or enters a plea of guilty of purchasing, receiving or
153 having in his or her possession in any public place any alcoholic
154 beverages in violation of subsection (2) of this section, the
155 trial judge, in lieu of the penalties otherwise provided under
156 subsection (2) of this section, shall suspend the minor's driver's
157 license by taking and keeping it in the custody of the court for a
158 period of time not to exceed ninety (90) days. The judge so
159 ordering the suspension shall enter upon his docket "DEFENDANT'S
160 DRIVER'S LICENSE SUSPENDED FOR _____ DAYS IN LIEU OF CONVICTION"
161 and such action by the trial judge shall not constitute a
162 conviction. During the period that the minor's driver's license
163 is suspended, the trial judge shall suspend the imposition of any
164 finest or penalties that may be imposed under subsection (2) of
165 this section and may place the minor on probation subject to such
166 conditions as the judge deems appropriate. If the minor violates
167 any of the conditions of probation, then the trial judge shall
168 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 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, or employee of the holder of a permit, may be punished as follows:

(a) For the first offense on the licensed premises, * * * by a fine of not less than Two Hundred Dollars (\$200.00) nor more than 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 three (3) months.

(b) For a second offense occurring on the licensed premises within twelve (12) months of the first offense, * * * by a fine of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00) 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, * * * by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than 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 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) Except as otherwise provided by Section 67-3-54, any person who knowingly purchases light wine or beer for, or gives or makes available light wine or beer to a person under the age of twenty-one (21) years, 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.

(4) 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.

(5) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of violating subsection (1) or subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under 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 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.

(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



334 procedure for suspension of a permit for being out of compliance
335 with an order for support, and the procedure for the reissuance or
336 reinstatement of a permit suspended for that purpose, and the
337 payment of any fees for the reissuance or reinstatement of a
338 permit suspended for that purpose, shall be governed by Section
339 93-11-157 or Section 93-11-163, as the case may be. If there is
340 any conflict between any provision of Section 93-11-157 or Section
341 93-11-163 and any provision of this chapter, the provisions of
342 Section 93-11-157 or Section 93-11-163, as the case may be, shall
343 control.

344 (c) To prescribe forms of permits and applications for
345 permits and of all reports which it deems necessary in
346 administering this chapter.

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

351 (e) To issue rules regulating the advertising of
352 alcoholic beverages in the state in any class of media and
353 permitting advertising of the retail price of alcoholic beverages.

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

361 (g) Subject to the provisions of subsection (3) of
362 Section 67-1-51, to issue rules and regulations governing the
363 issuance of retail permits for premises located near or around
364 schools, colleges, universities, churches and other public
365 institutions, and specifying the distances therefrom within which
366 no such permit shall be issued. The alcoholic beverage control



division shall not allow the sale or consumption of alcoholic 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.



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

435 67-1-37. The State Tax Commission, under its duties and
436 powers with respect to the Alcoholic Beverage Control Division
437 therein, shall have the following powers, functions and duties:

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

442 (b) To revoke, suspend or cancel, for violation of or
443 noncompliance with the provisions of this chapter, or the law
444 governing the production and sale of native wines, or any lawful
445 rules and regulations of the commission issued hereunder, or for
446 other sufficient cause, any permit issued by it under the
447 provisions of this chapter; however, no such permit shall be
448 revoked, suspended or cancelled except after a hearing of which
449 the permit holder shall have been given reasonable notice and an
450 opportunity to be heard. The board shall be authorized to suspend
451 the permit of any permit holder for being out of compliance with
452 an order for support, as defined in Section 93-11-153. The
453 procedure for suspension of a permit for being out of compliance
454 with an order for support, and the procedure for the reissuance or
455 reinstatement of a permit suspended for that purpose, and the
456 payment of any fees for the reissuance or reinstatement of a
457 permit suspended for that purpose, shall be governed by Section
458 93-11-157 or 93-11-163, as the case may be. If there is any
459 conflict between any provision of Section 93-11-157 or 93-11-163
460 and any provision of this chapter, the provisions of Section
461 93-11-157 or 93-11-163, as the case may be, shall control.

462 (c) To prescribe forms of permits and applications for
463 permits and of all reports which it deems necessary in
464 administering this chapter.



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

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

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

(g) Subject to the provisions of subsection (3) of Section 67-1-51, to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying the distances therefrom within which no such permit shall be issued. The alcoholic beverage control division shall not allow the sale or consumption of alcoholic 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.



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

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

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

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

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



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

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

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

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

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

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

552 67-3-31. Proceedings for the revocation or suspension of any
553 permit authorizing the sale of beer or wine at retail for a
554 violation of any of the provisions of Section 67-3-53 may be
555 brought in the circuit or county court of the county in which the
556 licensed premises are located. Such proceedings shall be entitled
557 in the name of the state and against the permittee and shall be
558 instituted by filing a complaint with the clerk of the court. The
559 complaint may be filed by the county prosecuting attorney of the
560 county upon his own initiative or, then by the district attorney
561 of the district in which the county is located, and it shall be
562 mandatory upon the county prosecuting attorney, or district



attorney as the case may be, to file a complaint when requested to do so by a peace officer or any person as hereinafter provided. Any peace officer within his jurisdiction or any enforcement officer of the Alcoholic Beverage Control Division within the State Tax Commission who learns that a retail permittee within his jurisdiction has violated any of the provisions of such section shall file with the county prosecuting attorney of the county in which the licensed premises are located, or, then with the district attorney of the district in which such county is located, an affidavit specifying in detail the facts alleged to constitute such violation, and requesting that a complaint be filed against the permittee for the revocation or suspension of his permit. A like affidavit may be filed with the county prosecuting attorney, or district attorney as the case may be, by any person who resides, and has for at least one (1) year prior thereto resided within the county in which the licensed premises are located requesting that a complaint be filed for the revocation or suspension of the permittee's permit. Promptly upon receiving any such affidavit the county prosecuting attorney, or district attorney, shall prepare a proper complaint, which shall be signed and sworn to by the person or persons filing the affidavit with him, and the county prosecuting attorney or district attorney shall file the complaint with the clerk of the circuit or county court.

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

67-3-31. Proceedings for the revocation or suspension of any permit authorizing the sale of beer or wine at retail for a violation of any of the provisions of Section 67-3-53 may be brought in the circuit or county court of the county in which the licensed premises are located. Such proceedings shall be entitled in the name of the state and against the permittee and shall be instituted by filing a complaint with the clerk of the court. The



complaint may be filed by the county prosecuting attorney of the county upon his own initiative or, then by the district attorney of the district in which the county is located, and it shall be mandatory upon the county prosecuting attorney, or district attorney as the case may be, to file a complaint when requested to do so by a peace officer or any person as hereinafter provided. Any peace officer who learns that a retail permittee within his jurisdiction has violated any of the provisions of such section shall file with the county prosecuting attorney of the county in which the licensed premises are located, or, then with the district attorney of the district in which such county is located, an affidavit specifying in detail the facts alleged to constitute such violation, and requesting that a complaint be filed against the permittee for the revocation or suspension of his permit. A like affidavit may be filed with the county prosecuting attorney, or district attorney as the case may be, by any person who resides, and has for at least one (1) year prior thereto resided within the county in which the licensed premises are located requesting that a complaint be filed for the revocation or suspension of the permittee's permit. Promptly upon receiving any such affidavit the county prosecuting attorney, or district attorney, shall prepare a proper complaint, which shall be signed and sworn to by the person or persons filing the affidavit with him, and the county prosecuting attorney or district attorney shall file the complaint with the clerk of the circuit or county court.

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

[Until 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.



629 It shall be the duty of all peace officers * * *, within
630 their jurisdiction, and all enforcement officers of the Alcoholic
631 Beverage Control Division of the State Tax Commission to enforce
632 the provisions of Section 67-3-53 and they shall frequently visit
633 all licensed premises within their jurisdiction to determine
634 whether such permittees are complying with the laws. They shall
635 promptly investigate all complaints made to them by any citizen
636 relative to any alleged violations of such section within their
637 jurisdiction. When any peace officer or enforcement officer of
638 the Alcoholic Beverage Control Division has knowledge of a
639 violation of such section committed by a permittee within his
640 jurisdiction, it shall be his duty forthwith to file an affidavit
641 with the county prosecuting attorney or district attorney
642 requesting that a complaint be filed for the revocation or
643 suspension of the permit of the permittee.

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

646 67-3-37. It shall be the duty of the county prosecuting
647 attorney or the district attorney, as the case may be, to file
648 complaints as provided in Section 67-3-31 and to prosecute
649 diligently and without delay all complaints filed by him.

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



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

