

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2890
(As Sent to Governor)

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22 GRANTED TO OFFICERS OF THE DIVISION SHALL BE REPEALED ON JULY 1,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) (a) 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.

40 (b) Upon receipt of such complaint or information, the
41 Alcoholic Beverage Control Division shall notify the permit holder
42 of the complaint by certified mail to the primary business office
43 of such permit holder or by hand delivery of the complaint or
44 information to the primary business office of such holder, except
45 in cases where the complaint or information is received from any
46 law enforcement officer.

47 (c) If an enforcement officer of the Alcoholic Beverage
48 Control Division enters the business of the holder of the permit
49 to investigate a complaint and discovers a violation, the agent
50 shall notify the person that committed the violation and the
51 holder of the permit:

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

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

58 (3) The provisions of this section shall be repealed on July
59 1, 2003.

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

62 67-3-29. (1) The commissioner shall revoke any permit
63 granted by authority of this chapter to any person who shall
64 violate any of the provisions of this chapter or the revenue laws
65 of this state relating to engaging in transporting, storing,
66 selling, distributing, possessing, receiving or manufacturing of
67 wines or beers, or any person who shall hereafter be convicted of
68 the unlawful sale of intoxicating liquor, or any person who shall
69 allow or permit any form of illegal gambling or immorality on the
70 premises described in such permit. The commissioner shall not



71 revoke or suspend a permit of a retailer for the sale of light
72 wine or beer to a person under the age of twenty-one (21) years
73 until there has been a conviction of the permit holder or an
74 employee of the permit holder for such violation.

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

99 (3) In addition to the reasons specified in this section and
100 other provisions of this chapter, the commissioner shall be
101 authorized to suspend the permit of any permit holder for being
102 out of compliance with an order for support, as defined in Section
103 93-11-153. The procedure for suspension of a permit for being out



104 of compliance with an order for support, and the procedure for the
105 reissuance or reinstatement of a permit suspended for that
106 purpose, and the payment of any fees for the reissuance or
107 reinstatement of a permit suspended for that purpose, shall be
108 governed by Section 93-11-157 or Section 93-11-163, as the case
109 may be. If there is any conflict between any provision of Section
110 93-11-157 or Section 93-11-163 and any provision of this chapter,
111 the provisions of Section 93-11-157 or 93-11-163, as the case may
112 be, shall control.

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

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

129 (2) Any person under the age of twenty-one (21) years who
130 purchases, receives, or has in his or her possession in any public
131 place, any alcoholic beverages, shall be guilty of a misdemeanor
132 and shall be punished by a fine of not less than Two Hundred
133 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).
134 Provided, that clearing or busing tables that have glasses or
135 other containers that contain or did contain alcoholic beverages,
136 or stocking, bagging or otherwise handling purchases of alcoholic



137 beverages shall not be deemed possession of alcoholic beverages
138 for the purposes of this section. Provided further, that a person
139 who is at least eighteen (18) years of age but under the age of
140 twenty-one (21) years who waits on tables by taking orders for or
141 delivering orders of alcoholic beverages shall not be deemed to
142 unlawfully possess or furnish alcoholic beverages if in the scope
143 of his employment by the holder of an on-premises retailer's
144 permit. This exception shall not authorize a person under the age
145 of twenty-one (21) to tend bar or act in the capacity of
146 bartender. Any person under the age of twenty-one (21) who
147 knowingly makes a false statement to the effect that he or she is
148 twenty-one (21) years old or older to any person engaged in the
149 sale of alcoholic beverages for the purpose of obtaining the same
150 shall be guilty of a misdemeanor and shall be punished by a fine
151 of not less than Two Hundred Dollars (\$200.00) nor more than Five
152 Hundred Dollars (\$500.00), and a sentence to not more than thirty
153 (30) days' community service.

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

158 (4) If a person under the age of twenty-one (21) years is
159 convicted or enters a plea of guilty of purchasing, receiving or
160 having in his or her possession in any public place any alcoholic
161 beverages in violation of subsection (2) of this section, the
162 trial judge, in lieu of the penalties otherwise provided under
163 subsection (2) of this section, shall suspend the minor's driver's
164 license by taking and keeping it in the custody of the court for a
165 period of time not to exceed ninety (90) days. The judge so
166 ordering the suspension shall enter upon his docket "DEFENDANT'S
167 DRIVER'S LICENSE SUSPENDED FOR _____ DAYS IN LIEU OF CONVICTION"
168 and such action by the trial judge shall not constitute a
169 conviction. During the period that the minor's driver's license



170 is suspended, the trial judge shall suspend the imposition of any
171 finest or penalties that may be imposed under subsection (2) of
172 this section and may place the minor on probation subject to such
173 conditions as the judge deems appropriate. If the minor violates
174 any of the conditions of probation, then the trial judge shall
175 return the driver's license to the minor and impose the fines,
176 penalties or both, that he would have otherwise imposed, and such
177 action shall constitute a conviction.

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

180 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
181 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
182 this chapter or of any rule or regulation of the commissioner,
183 shall be a misdemeanor and, where the punishment therefor is not
184 elsewhere prescribed herein, shall be punished by a fine of not
185 more than Five Hundred Dollars (\$500.00) or imprisonment for not
186 more than six (6) months, or both, in the discretion of the court.
187 If any person so convicted shall be the holder of any permit or
188 license issued by the commissioner under authority of this
189 chapter, such permit or license shall from and after the date of
190 such conviction be void and the holder thereof shall not
191 thereafter, for a period of one (1) year from the date of such
192 conviction, be entitled to any permit or license for any purpose
193 authorized by this chapter. Upon conviction of the holder of any
194 permit or license, the appropriate law enforcement officer shall
195 seize the permit or license and transmit it to the commissioner.

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



203 (b) Any person who shall violate any provision of
204 Section 67-3-57 shall be guilty of a misdemeanor, and upon
205 conviction thereof, shall be punished by a fine of not more than
206 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
207 jail for not more than one (1) year, or by both, in the discretion
208 of the court. Any person convicted of violating any provision of
209 the sections referred to in this subsection shall forfeit his
210 permit, and shall not thereafter be permitted to engage in any
211 business taxable under the provisions of Sections 27-71-301
212 through 27-71-347.

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

219 (a) For the first offense on the licensed
220 premises, * * * by a fine of not less than Two Hundred Dollars
221 (\$200.00) nor more than One Thousand Dollars (\$1,000.00) and/or
222 the sale of beer or wine on the premises from which the sale
223 occurred may be prohibited for three (3) months.

224 (b) For a second offense occurring on the licensed
225 premises within twelve (12) months of the first offense, * * * by
226 a fine of not less than Two Hundred Dollars (\$200.00) nor more
227 than One Thousand Five Hundred Dollars (\$1,500.00) and/or the
228 sale of beer or wine on the premises from which the sale occurred
229 may be prohibited for six (6) months.

230 (c) For a third or subsequent offense occurring on the
231 licensed premises within twelve (12) months of the first, * * * by
232 a fine of not less than One Thousand Dollars (\$1,000.00) nor more
233 than Five Thousand Dollars (\$5,000.00) and/or the sale of beer or
234 wine on the premises from which the sale occurred may be
235 prohibited for one (1) year.



236 (4) A person who sells any beer or wine to a person under
237 the age of twenty-one (21) years shall not be guilty of a
238 violation of Section 67-3-53(b) if the person under the age of
239 twenty-one (21) years represents himself to be twenty-one (21)
240 years of age or older by displaying an apparently valid
241 Mississippi driver's license containing a physical description
242 consistent with his appearance or by displaying some other
243 apparently valid identification document containing a picture and
244 physical description consistent with his appearance for the
245 purpose of inducing the person to sell beer or wine to him.

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

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

253 (b) For a second offense occurring within twelve (12)
254 months of the first offense, the holder of a permit to operate a
255 brewpub may be fined an amount not to exceed One Thousand Dollars
256 (\$1,000.00).

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

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

264 67-3-70. (1) Except as otherwise provided by Section
265 67-3-54, any person under the age of twenty-one (21) years who
266 purchases or possesses any light wine or beer shall be guilty of a
267 misdemeanor, and upon conviction shall be punished by a fine of
268 not less than Two Hundred Dollars (\$200.00) nor more than Five



269 Hundred Dollars (\$500.00) and a sentence to not more than thirty
270 (30) days' community service.

271 (2) Any person under the age of twenty-one (21) years who
272 falsely states he is twenty-one (21) years of age or older or
273 presents any document that indicates he is twenty-one (21) years
274 of age or older for the purpose of purchasing or possessing any
275 light wine or beer shall be guilty of a misdemeanor, and upon
276 conviction shall be punished by a fine of not less than Two
277 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
278 (\$500.00) and * * * a sentence to not more than thirty (30) days
279 community service.

280 (3) Except as otherwise provided by Section 67-3-54, any
281 person who knowingly purchases light wine or beer for, or gives or
282 makes available light wine or beer to a person under the age of
283 twenty-one (21) years, shall be guilty of a misdemeanor and upon
284 conviction shall be punished by a fine of not less than Two
285 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
286 (\$500.00) and * * * a sentence to not more than thirty (30) days
287 community service.

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

292 (5) If a person under the age of twenty-one (21) years is
293 convicted or enters a plea of guilty of violating subsection (1)
294 or subsection (2) of this section, the trial judge, in lieu of the
295 penalties otherwise provided under this section, shall suspend the
296 minor's driver's license by taking and keeping it in the custody
297 of the court for a period of time not to exceed ninety (90) days.
298 The judge so ordering the suspension shall enter upon his docket
299 "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR _____ DAYS IN LIEU OF
300 CONVICTION" and such action by the trial judge shall not
301 constitute a conviction. During the period that the minor's



302 driver's license is suspended, the trial judge shall suspend the
303 imposition of any fines or penalties that may be imposed under
304 this section and may place the minor on probation subject to such
305 conditions as the judge deems appropriate. If the minor violates
306 any of the conditions of probation, then the trial judge shall
307 return the driver's license to the minor and impose the fines,
308 penalties, or both, that he would have otherwise imposed, and such
309 action shall constitute a conviction.

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

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

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

323 67-1-37. The State Tax Commission, under its duties and
324 powers with respect to the Alcoholic Beverage Control Division
325 therein, shall have the following powers, functions and duties:

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

330 (b) To revoke, suspend or cancel, for violation of or
331 noncompliance with the provisions of this chapter, or the law
332 governing the production and sale of native wines, or any lawful
333 rules and regulations of the commission issued hereunder, or for
334 other sufficient cause, any permit issued by it under the



335 provisions of this chapter; however, no such permit shall be
336 revoked, suspended or cancelled except after a hearing of which
337 the permit holder shall have been given reasonable notice and an
338 opportunity to be heard. The board shall be authorized to suspend
339 the permit of any permit holder for being out of compliance with
340 an order for support, as defined in Section 93-11-153. The
341 procedure for suspension of a permit for being out of compliance
342 with an order for support, and the procedure for the reissuance or
343 reinstatement of a permit suspended for that purpose, and the
344 payment of any fees for the reissuance or reinstatement of a
345 permit suspended for that purpose, shall be governed by Section
346 93-11-157 or Section 93-11-163, as the case may be. If there is
347 any conflict between any provision of Section 93-11-157 or Section
348 93-11-163 and any provision of this chapter, the provisions of
349 Section 93-11-157 or Section 93-11-163, as the case may be, shall
350 control.

351 (c) To prescribe forms of permits and applications for
352 permits and of all reports which it deems necessary in
353 administering this chapter.

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

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

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



368 (g) Subject to the provisions of subsection (3) of
369 Section 67-1-51, to issue rules and regulations governing the
370 issuance of retail permits for premises located near or around
371 schools, colleges, universities, churches and other public
372 institutions, and specifying the distances therefrom within which
373 no such permit shall be issued. The alcoholic beverage control
374 division shall not allow the sale or consumption of alcoholic
375 beverages in or on the campus of any public school or college, and
376 no alcoholic beverage shall be for sale or consumed at any public
377 athletic event at any grammar or high school or any college.

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

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

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

397 (k) To inspect, or cause to be inspected, any premises
398 where alcoholic liquors intended for sale are manufactured,
399 stored, distributed or sold, and to examine or cause to be



400 examined all books and records pertaining to the business
401 conducted therein.

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

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

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

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



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

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

438 (r) To enforce the provisions made unlawful by Sections
439 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

442 67-1-37. The State Tax Commission, under its duties and
443 powers with respect to the Alcoholic Beverage Control Division
444 therein, shall have the following powers, functions and duties:

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

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



464 permit suspended for that purpose, shall be governed by Section
465 93-11-157 or 93-11-163, as the case may be. If there is any
466 conflict between any provision of Section 93-11-157 or 93-11-163
467 and any provision of this chapter, the provisions of Section
468 93-11-157 or 93-11-163, as the case may be, shall control.

469 (c) To prescribe forms of permits and applications for
470 permits and of all reports which it deems necessary in
471 administering this chapter.

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

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

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

486 (g) Subject to the provisions of subsection (3) of
487 Section 67-1-51, to issue rules and regulations governing the
488 issuance of retail permits for premises located near or around
489 schools, colleges, universities, churches and other public
490 institutions, and specifying the distances therefrom within which
491 no such permit shall be issued. The alcoholic beverage control
492 division shall not allow the sale or consumption of alcoholic
493 beverages in or on the campus of any public school or college, and
494 no alcoholic beverage shall be for sale or consumed at any public
495 athletic event at any grammar or high school or any college.



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

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

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

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

520 (l) In the conduct of any hearing authorized to be held
521 by the commission, to hear testimony and take proof material for
522 its information in the discharge of its duties under this chapter;
523 to issue subpoenas, which shall be effective in any part of this
524 state, requiring the attendance of witnesses and the production of
525 books and records; to administer or cause to be administered
526 oaths; and to examine or cause to be examined any witness under
527 oath. Any court of record, or any judge thereof, may by order
528 duly entered require the attendance of witnesses and the



529 production of relevant books subpoenaed by the commission, and
530 such court or judge may compel obedience to its or his order by
531 proceedings for contempt.

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

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

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

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

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

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

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

559 67-3-31. Proceedings for the revocation or suspension of any
560 permit authorizing the sale of beer or wine at retail for a
561 violation of any of the provisions of Section 67-3-53 may be



562 brought in the circuit or county court of the county in which the
563 licensed premises are located. Such proceedings shall be entitled
564 in the name of the state and against the permittee and shall be
565 instituted by filing a complaint with the clerk of the court. The
566 complaint may be filed by the county prosecuting attorney of the
567 county upon his own initiative or, then by the district attorney
568 of the district in which the county is located, and it shall be
569 mandatory upon the county prosecuting attorney, or district
570 attorney as the case may be, to file a complaint when requested to
571 do so by a peace officer or any person as hereinafter provided.
572 Any peace officer within his jurisdiction or any enforcement
573 officer of the Alcoholic Beverage Control Division within the
574 State Tax Commission who learns that a retail permittee within his
575 jurisdiction has violated any of the provisions of such section
576 shall file with the county prosecuting attorney of the county in
577 which the licensed premises are located, or, then with the
578 district attorney of the district in which such county is located,
579 an affidavit specifying in detail the facts alleged to constitute
580 such violation, and requesting that a complaint be filed against
581 the permittee for the revocation or suspension of his permit. A
582 like affidavit may be filed with the county prosecuting attorney,
583 or district attorney as the case may be, by any person who
584 resides, and has for at least one (1) year prior thereto resided
585 within the county in which the licensed premises are located
586 requesting that a complaint be filed for the revocation or
587 suspension of the permittee's permit. Promptly upon receiving any
588 such affidavit the county prosecuting attorney, or district
589 attorney, shall prepare a proper complaint, which shall be signed
590 and sworn to by the person or persons filing the affidavit with
591 him, and the county prosecuting attorney or district attorney
592 shall file the complaint with the clerk of the circuit or county
593 court.



594 [From and after July 1, 2003, this section will read as

595 follows:]

596 67-3-31. Proceedings for the revocation or suspension of any
597 permit authorizing the sale of beer or wine at retail for a
598 violation of any of the provisions of Section 67-3-53 may be
599 brought in the circuit or county court of the county in which the
600 licensed premises are located. Such proceedings shall be entitled
601 in the name of the state and against the permittee and shall be
602 instituted by filing a complaint with the clerk of the court. The
603 complaint may be filed by the county prosecuting attorney of the
604 county upon his own initiative or, then by the district attorney
605 of the district in which the county is located, and it shall be
606 mandatory upon the county prosecuting attorney, or district
607 attorney as the case may be, to file a complaint when requested to
608 do so by a peace officer or any person as hereinafter provided.
609 Any peace officer who learns that a retail permittee within his
610 jurisdiction has violated any of the provisions of such section
611 shall file with the county prosecuting attorney of the county in
612 which the licensed premises are located, or, then with the
613 district attorney of the district in which such county is located,
614 an affidavit specifying in detail the facts alleged to constitute
615 such violation, and requesting that a complaint be filed against
616 the permittee for the revocation or suspension of his permit. A
617 like affidavit may be filed with the county prosecuting attorney,
618 or district attorney as the case may be, by any person who
619 resides, and has for at least one (1) year prior thereto resided
620 within the county in which the licensed premises are located
621 requesting that a complaint be filed for the revocation or
622 suspension of the permittee's permit. Promptly upon receiving any
623 such affidavit the county prosecuting attorney, or district
624 attorney, shall prepare a proper complaint, which shall be signed
625 and sworn to by the person or persons filing the affidavit with
626 him, and the county prosecuting attorney or district attorney



627 shall file the complaint with the clerk of the circuit or county
628 court.

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

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

632 67-3-37. It shall be the duty of the county prosecuting
633 attorney or the district attorney, as the case may be, to file
634 complaints as provided in Section 67-3-31 and to prosecute
635 diligently and without delay all complaints filed by him.

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

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

653 67-3-37. It shall be the duty of the county prosecuting
654 attorney or the district attorney, as the case may be, to file
655 complaints as provided in Section 67-3-31 and to prosecute
656 diligently and without delay all complaints filed by him.

657 It shall be the duty of all peace officers to enforce, within
658 their jurisdiction, the provisions of Section 67-3-53 and they
659 shall frequently visit all licensed premises within their



660 jurisdiction to determine whether such permittees are complying
661 with the laws. They shall promptly investigate all complaints
662 made to them by any citizen relative to any alleged violations of
663 such section within their jurisdiction. When any peace officer
664 has knowledge of a violation of such section committed by a
665 permittee within his jurisdiction, it shall be his duty forthwith
666 to file an affidavit with the county prosecuting attorney or
667 district attorney requesting that a complaint be filed for the
668 revocation or suspension of the permit of the permittee.

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

