

By: Representative Formby

To: Ways and Means

HOUSE BILL NO. 1237

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A RESPONSIBLE
2 ALCOHOL VENDOR PROGRAM DESIGNED TO ELIMINATE THE SALE OF ALCOHOLIC
3 BEVERAGES, BEER AND LIGHT WINE TO UNDERAGE PERSONS AND TO
4 ENCOURAGE THE RESPONSIBLE SALE OF ALCOHOLIC BEVERAGES, BEER AND
5 LIGHT WINE; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL OVERSEE
6 THE PROGRAM; TO PROVIDE THAT THE COMMISSION SHALL APPROVE ALL
7 SERVER TRAINING COURSES AND ISSUE PERMITS TO APPROVED PROVIDERS;
8 TO PROVIDE THAT APPROVED PROVIDERS SHALL ISSUE SERVER CERTIFICATES
9 TO SERVERS UPON SUCCESSFUL COMPLETION OF A SERVER TRAINING COURSE;
10 TO PROVIDE THAT IF A VENDOR'S EMPLOYEE SELLS ALCOHOLIC BEVERAGES,
11 BEER OR LIGHT WINE TO UNDERAGE OR VISIBLY INTOXICATED PERSONS THE
12 VENDOR'S PERMIT SHALL NOT BE SUSPENDED OR REVOKED BY THE
13 COMMISSION FOR THE FIRST OFFENSE COMMITTED ON THE PERMITTED
14 PREMISES WITHIN A SIX-MONTH PERIOD IF ALL SERVERS OF THE VENDOR
15 POSSESS A VALID SERVER'S CERTIFICATION AT THE TIME OF THE
16 VIOLATION OR ALL SERVERS HAVE APPLIED FOR SERVER'S CERTIFICATION
17 WITHIN 30 DAYS AFTER COMMENCING EMPLOYMENT, AND THE VENDOR WAS
18 WITHOUT KNOWLEDGE OF THE VIOLATION OR DID NOT PARTICIPATE IN OR
19 COMMIT THE VIOLATION; TO PROVIDE THAT IF THERE ARE SUBSEQUENT
20 VIOLATIONS WITHIN THE SIX-MONTH PERIOD, SERVER TRAINING MAY, BUT
21 IS NOT REQUIRED TO, BE CONSIDERED AS A MITIGATING FACTOR; TO
22 PROVIDE FOR FEES FOR APPROVED PROVIDER PERMITS; TO AMEND SECTIONS
23 67-1-37, 67-1-71, 67-1-81, 67-3-29 AND 67-3-69, MISSISSIPPI CODE
24 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** Sections 1 through 9 of this act shall be known
27 and may be cited as the "Responsible Alcohol Vendor Law" of the
28 State of Mississippi.

29 **SECTION 2.** The purpose of this section is to eliminate the
30 sale of alcoholic beverages, beer and light wine to, and the
31 consumption of alcoholic beverages, beer, and light wine by
32 underage persons; to reduce intoxication and to reduce accidents,
33 injuries, and death in the state which are related to
34 intoxication; and to encourage the responsible sale of alcoholic
35 beverages, beer and light wine by vendors throughout the state and
36 provide for the mitigation of administrative penalties against
37 vendors who comply with responsible practices in accordance with
38 this act.

39 **SECTION 3.** As used in Sections 1 through 9 of this act, of
40 the following words and phrases shall have the meanings ascribed
41 in this section unless the context clearly indicated otherwise:

42 (a) "Commission" means the State Tax Commission.

43 (b) "Person" means any individual, partnership,
44 corporation, association or other legal entity.

45 (c) "Vendor" means any person holding a permit to sell
46 alcoholic beverages, beer or light wine, for on-premises
47 consumption or off-premises consumption.

48 (d) "Server" means any employee of a vendor who is
49 authorized to sell, serve, or mix alcoholic beverages, beer or
50 light wine in the normal course of his or her employment or deals
51 with the customers who purchase or consume alcoholic beverages,
52 beer or light wine.

53 (e) "Server certification" means the certificate issued
54 to a server upon completion of an approved server training course.

55 (f) "Approved provider" means a person approved by the
56 commission to provide server training courses.

57 (g) "Trainer" means an individual employed or
58 authorized by an approved training provider to conduct an alcohol
59 server education course wherein the successful completion of the
60 course by the student will result in the issuance of a server
61 certification.

62 **SECTION 4.** (1) The commission shall oversee the Responsible
63 Alcohol Vendor Program designed to educate vendors and their
64 employees and customers about selling, serving and consuming
65 alcoholic beverages, beer and light wine in a responsible manner.
66 The commission shall:

67 (a) Approve server training courses for vendors and
68 servers; and

69 (b) Issue and renew approved provider permits.

70 Approved provider permits shall be considered a privilege
71 license and if not expired, suspended or revoked, remain valid
72 within the State of Mississippi.

73 (2) The commission shall approve all server training courses
74 prior to implementation and issue permits to approved providers.
75 The permits for approved providers shall be valid for two (2)
76 years. The commission may promulgate rules and regulations
77 setting forth additional requirements for providers and/or
78 individual trainers.

79 (3) Approved providers shall retain records of all persons
80 trained for a period of three (3) years after the date of such
81 training and shall make this information available to the
82 commission upon request or as required by regulation.

83 **SECTION 5.** Approved providers shall issue server
84 certificates to servers upon successful completion of a server
85 training course offered by an approved provider. Server
86 certificates shall be valid for a period of two (2) years from the
87 date of completion of the training course and shall be issued and
88 renewed by approved providers in accordance with the rules and
89 regulations promulgated by the commission.

90 **SECTION 6.** The commission may suspend or revoke and
91 disapprove provider's permit or impose a fine for noncompliance
92 with Sections 1 through 9 of this act or for any violation of the
93 federal, state or local laws or regulations. The procedure for
94 the suspension, revocation or denial of a permit, or for the
95 imposition of fines, shall be the same as are otherwise set forth
96 in Chapter 1, Title 67, Mississippi Code of 1972, suspension or
97 revocation of alcoholic beverage permits.

98 **SECTION 7.** (1) If a vendor's employee sells alcoholic
99 beverages, beer or light wine to an underage or visibly
100 intoxicated person, the vendor's permit shall not be suspended or
101 revoked by the commission for the first offense committed on the
102 permitted premises within a six-month period if:

103 (a) All servers of the vendor possessed a valid
104 server's certification at the time of the violation or all servers
105 had applied for server's certification within thirty (30) days
106 after commencing employment; and

107 (b) The vendor was without knowledge of the violation
108 or did not participate in or commit such violation.

109 (2) If there are subsequent violations at the permitted
110 premises within a six-month period, the commission may consider
111 server training in mitigation of a vendor's administrative
112 penalties or fines for the unlawful sale or service of an
113 alcoholic beverage, beer or light wine.

114 (3) The vendor shall have the burden of proof in showing
115 that his or her employees were trained or had applied for training
116 within thirty (30) days of commencing employment.

117 **SECTION 8.** The commission may promulgate rules and
118 regulations to effectuate the program in accordance with the
119 Mississippi Administrative Procedures Law, including, but not
120 limited to, rules and regulations related to the development,
121 establishment and maintenance of the program. The commission
122 shall effect the formation of an industry advisory council to
123 provide comment on the proposed initial rules and regulations.

124 **SECTION 9.** The commission may promulgate rules and
125 regulations regarding fees for approved provider permits to be
126 issued under Sections 1 through 9 of this act. The commission may
127 assess a permit fee not to exceed Five Hundred Dollars (\$500.00)
128 upon any person, organization or entity seeking classification as
129 an approved provider. This permit shall remain valid for a period
130 of two (2) years, unless suspended or revoked by the commission.
131 The commission may renew an approved provider permit upon request
132 and assess a permit renewal fee not to exceed One Hundred Dollars
133 (\$100.00).

134 **SECTION 10.** Section 67-1-37, Mississippi Code of 1972, is
135 amended as follows:

136 **[Until July 1, 2005, this section will read as follows:]**

137 67-1-37. The State Tax Commission, under its duties and
138 powers with respect to the Alcoholic Beverage Control Division
139 therein, shall have the following powers, functions and duties:

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

144 (b) To revoke, suspend or cancel, for violation of or
145 noncompliance with the provisions of this chapter, or the law
146 governing the production and sale of native wines, or any lawful
147 rules and regulations of the commission issued hereunder, or for
148 other sufficient cause, any permit issued by it under the
149 provisions of this chapter; however, no such permit shall be
150 revoked, suspended or cancelled except after a hearing of which
151 the permit holder shall have been given reasonable notice and an
152 opportunity to be heard. The board shall be authorized to suspend
153 the permit of any permit holder for being out of compliance with
154 an order for support, as defined in Section 93-11-153. The
155 procedure for suspension of a permit for being out of compliance
156 with an order for support, and the procedure for the reissuance or
157 reinstatement of a permit suspended for that purpose, and the
158 payment of any fees for the reissuance or reinstatement of a
159 permit suspended for that purpose, shall be governed by Section
160 93-11-157 or Section 93-11-163, as the case may be. If there is
161 any conflict between any provision of Section 93-11-157 or Section
162 93-11-163 and any provision of this chapter, the provisions of
163 Section 93-11-157 or Section 93-11-163, as the case may be, shall
164 control.

165 (c) To prescribe forms of permits and applications for
166 permits and of all reports which it deems necessary in
167 administering this chapter.

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

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

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

182 (g) Subject to the provisions of subsection (3) of
183 Section 67-1-51, to issue rules and regulations governing the
184 issuance of retail permits for premises located near or around
185 schools, colleges, universities, churches and other public
186 institutions, and specifying the distances therefrom within which
187 no such permit shall be issued. The Alcoholic Beverage Control
188 Division shall not allow the sale or consumption of alcoholic
189 beverages in or on the campus of any public school or college, and
190 no alcoholic beverage shall be for sale or consumed at any public
191 athletic event at any grammar or high school or any college.

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

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

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

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

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

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

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

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

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

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

252 (r) To enforce the provisions made unlawful by Sections
253 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

254 (s) To adopt and promulgate rules and regulations for
255 the Responsible Alcohol Vendor Law.

256 **[From and after July 1, 2005, this section will read as**
257 **follows:]**

258 67-1-37. The State Tax Commission, under its duties and
259 powers with respect to the Alcoholic Beverage Control Division
260 therein, shall have the following powers, functions and duties:

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

265 (b) To revoke, suspend or cancel, for violation of or
266 noncompliance with the provisions of this chapter, or the law
267 governing the production and sale of native wines, or any lawful
268 rules and regulations of the commission issued hereunder, or for
269 other sufficient cause, any permit issued by it under the
270 provisions of this chapter; however, no such permit shall be
271 revoked, suspended or cancelled except after a hearing of which
272 the permit holder shall have been given reasonable notice and an
273 opportunity to be heard. The board shall be authorized to suspend
274 the permit of any permit holder for being out of compliance with
275 an order for support, as defined in Section 93-11-153. The
276 procedure for suspension of a permit for being out of compliance
277 with an order for support, and the procedure for the reissuance or
278 reinstatement of a permit suspended for that purpose, and the
279 payment of any fees for the reissuance or reinstatement of a
280 permit suspended for that purpose, shall be governed by Section
281 93-11-157 or 93-11-163, as the case may be. If there is any
282 conflict between any provision of Section 93-11-157 or 93-11-163
283 and any provision of this chapter, the provisions of Section
284 93-11-157 or 93-11-163, as the case may be, shall control.

285 (c) To prescribe forms of permits and applications for
286 permits and of all reports which it deems necessary in
287 administering this chapter.

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

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

295 (f) To issue reasonable rules and regulations, not
296 inconsistent with the federal laws or regulations, requiring
297 informative labeling of all alcoholic beverages offered for sale

298 within this state and providing for the standards of fill and
299 shapes of retail containers of alcoholic beverages; however, such
300 containers shall not contain less than fifty (50) milliliters by
301 liquid measure.

302 (g) Subject to the provisions of subsection (3) of
303 Section 67-1-51, to issue rules and regulations governing the
304 issuance of retail permits for premises located near or around
305 schools, colleges, universities, churches and other public
306 institutions, and specifying the distances therefrom within which
307 no such permit shall be issued. The Alcoholic Beverage Control
308 Division shall not allow the sale or consumption of alcoholic
309 beverages in or on the campus of any public school or college, and
310 no alcoholic beverage shall be for sale or consumed at any public
311 athletic event at any grammar or high school or any college.

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

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

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

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

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

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

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

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

363 or suspension, and upon request given a hearing in his own
364 defense.

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

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

372 (r) To adopt and promulgate rules and regulations for
373 the Responsible Alcohol Vendor Law.

374 **SECTION 11.** Section 67-1-71, Mississippi Code of 1972, is
375 amended as follows:

376 67-1-71. The commission may revoke or suspend any permit
377 issued by it for a violation by the permittee of any of the
378 provisions of this chapter or of the regulations promulgated under
379 it by the commission.

380 Permits must be revoked or suspended for the following
381 causes:

382 (a) Conviction of the permittee for the violation of
383 any of the provisions of this chapter;

384 (b) Willful failure or refusal by any permittee to
385 comply with any of the provisions of this chapter or of any rule
386 or regulation adopted pursuant thereto;

387 (c) The making of any materially false statement in any
388 application for a permit;

389 (d) Conviction of one or more of the clerks, agents or
390 employees of the permittee, of any violation of this chapter upon
391 the premises covered by such permit within a period of time as
392 designated by the rules or regulations of the commission;

393 (e) The possession on the premises of any retail
394 permittee of any alcoholic beverages upon which the tax has not
395 been paid;

396 (f) The willful failure of any permittee to keep the
397 records or make the reports required by this chapter, or to allow
398 an inspection of such records by any duly authorized person;

399 (g) The suspension or revocation of a permit issued to
400 the permittee by the federal government, or conviction of
401 violating any federal law relating to alcoholic beverages;

402 (h) The failure to furnish any bond required by this
403 chapter within fifteen (15) days after notice from the commission;
404 and

405 (i) The conducting of any form of illegal gambling on
406 the premises of any permittee or on any premises connected
407 therewith or the presence on any such premises of any gambling
408 device with the knowledge of the permittee.

409 The provisions of paragraph (i) of this section shall not
410 apply to gambling or the presence of any gambling devices, with
411 knowledge of the permittee, on board a cruise vessel in the waters
412 within the State of Mississippi, which lie adjacent to the State
413 of Mississippi south of the three (3) most southern counties in
414 the State of Mississippi, or on any vessel as defined in Section
415 27-109-1 whenever such vessel is on the Mississippi River or
416 navigable waters within any county bordering on the Mississippi
417 River. The commission may, in its discretion, issue on-premises
418 retailer's permits to a common carrier of the nature described in
419 this paragraph.

420 In exercising its authority under this section, the
421 commission shall recognize the defense created for permittees
422 certified under the Responsible Alcohol Vendor Law.

423 No permit shall be revoked except after a hearing by the
424 commission with reasonable notice to the permittee and an
425 opportunity for him to appear and defend.

426 In addition to the causes specified in this section and other
427 provisions of this chapter, the commission shall be authorized to
428 suspend the permit of any permit holder for being out of

429 compliance with an order for support, as defined in Section
430 93-11-153. The procedure for suspension of a permit for being out
431 of compliance with an order for support, and the procedure for the
432 reissuance or reinstatement of a permit suspended for that
433 purpose, and the payment of any fees for the reissuance or
434 reinstatement of a permit suspended for that purpose, shall be
435 governed by Section 93-11-157 or 93-11-163, as the case may be.
436 If there is any conflict between any provision of Section
437 93-11-157 or 93-11-163 and any provision of this chapter, the
438 provisions of Section 93-11-157 or 93-11-163, as the case may be,
439 shall control.

440 **SECTION 12.** Section 67-1-81, Mississippi Code of 1972, is
441 amended as follows:

442 67-1-81. (1) (a) Any permittee or other person who shall
443 sell, furnish, dispose of, give, or cause to be sold, furnished,
444 disposed of, or given, any alcoholic beverage to any person under
445 the age of twenty-one (21) years shall be guilty of a misdemeanor
446 and shall be punished by a fine of not less than Five Hundred
447 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)
448 for a first offense. For a second or subsequent offense, such
449 permittee or other person shall be punished by a fine of not less
450 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand
451 Dollars (\$2,000.00), or by imprisonment for not more than one (1)
452 year, or by both such fine and imprisonment in the discretion of
453 the court. Upon conviction of a second offense under the
454 provisions of this section the permit of any permittee so
455 convicted shall be automatically and permanently revoked.

456 (b) For the purposes of this subsection, the actions of
457 an employee of a permittee shall not be attributable to the
458 permittee if:

459 (i) All employees of the permittee who are servers
460 as defined in the Responsible Alcohol Vendor Law possessed a valid
461 server's certification at the time of the violation or all servers

462 had applied for server's certification within thirty (30) days
463 after commencing employment; and

464 (ii) The permittee was without knowledge of the
465 violation or did not participate in or commit such violation.

466 (2) Any person under the age of twenty-one (21) years who
467 purchases, receives, or has in his or her possession in any public
468 place, any alcoholic beverages, shall be guilty of a misdemeanor
469 and shall be punished by a fine of not less than Two Hundred
470 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).
471 Provided, that clearing or busing tables that have glasses or
472 other containers that contain or did contain alcoholic beverages,
473 or stocking, bagging or otherwise handling purchases of alcoholic
474 beverages shall not be deemed possession of alcoholic beverages
475 for the purposes of this section. Provided further, that a person
476 who is at least eighteen (18) years of age but under the age of
477 twenty-one (21) years who waits on tables by taking orders for or
478 delivering orders of alcoholic beverages shall not be deemed to
479 unlawfully possess or furnish alcoholic beverages if in the scope
480 of his employment by the holder of an on-premises retailer's
481 permit. This exception shall not authorize a person under the age
482 of twenty-one (21) to tend bar or act in the capacity of
483 bartender. Any person under the age of twenty-one (21) who
484 knowingly makes a false statement to the effect that he or she is
485 twenty-one (21) years old or older to any person engaged in the
486 sale of alcoholic beverages for the purpose of obtaining the same
487 shall be guilty of a misdemeanor and shall be punished by a fine
488 of not less than Two Hundred Dollars (\$200.00) nor more than Five
489 Hundred Dollars (\$500.00), and a sentence to not more than thirty
490 (30) days' community service.

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

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

515 **SECTION 13.** Section 67-3-29, Mississippi Code of 1972, is
516 amended as follows:

517 67-3-29. (1) The commissioner shall revoke any permit
518 granted by authority of this chapter to any person who shall
519 violate any of the provisions of this chapter or the revenue laws
520 of this state relating to engaging in transporting, storing,
521 selling, distributing, possessing, receiving or manufacturing of
522 wines or beers, or any person who shall hereafter be convicted of
523 the unlawful sale of intoxicating liquor, or any person who shall
524 allow or permit any form of illegal gambling or immorality on the
525 premises described in such permit. The commissioner shall not
526 revoke or suspend a permit of a retailer for the sale of light
527 wine or beer to a person under the age of twenty-one (21) years

528 until there has been a conviction of the permit holder or an
529 employee of the permit holder for such violation.

530 (2) If any person exercising any privilege taxable under the
531 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,
532 shall willfully neglect or refuse to comply with the provisions of
533 such chapter, or any rules or regulations promulgated by the
534 commissioner under authority of such chapter, or the provisions of
535 this chapter, the commissioner shall be authorized to revoke the
536 permit theretofore issued to such person, after giving to such
537 person ten (10) days notice of the intention of the commissioner
538 to revoke such permit. The commissioner may, however, suspend
539 such permit instead of revoking same if, in his opinion,
540 sufficient cause is shown for a suspension rather than revocation.
541 Any person whose permit shall have been revoked by the
542 commissioner shall be thereafter prohibited from exercising any
543 privilege under the provisions of Chapter 71 of Title 27,
544 Mississippi Code of 1972, for a period of two (2) years from the
545 date of such revocation. The commissioner may, however, for good
546 cause shown, grant a new permit upon such conditions as the
547 commissioner may prescribe. Any person whose permit shall have
548 been suspended by the commissioner shall be prohibited from
549 exercising any privilege under the provisions of Chapter 71 of
550 Title 27, Mississippi Code of 1972, during the period of such
551 suspension. Failure of such person to comply with the terms of
552 the suspension shall be cause for revocation of his permit, in
553 addition to the other penalties provided by law.

554 (3) In addition to the reasons specified in this section and
555 other provisions of this chapter, the commissioner shall be
556 authorized to suspend the permit of any permit holder for being
557 out of compliance with an order for support, as defined in Section
558 93-11-153. The procedure for suspension of a permit for being out
559 of compliance with an order for support, and the procedure for the
560 reissuance or reinstatement of a permit suspended for that

561 purpose, and the payment of any fees for the reissuance or
562 reinstatement of a permit suspended for that purpose, shall be
563 governed by Section 93-11-157 or Section 93-11-163, as the case
564 may be. If there is any conflict between any provision of Section
565 93-11-157 or Section 93-11-163 and any provision of this chapter,
566 the provisions of Section 93-11-157 or 93-11-163, as the case may
567 be, shall control.

568 (4) In exercising its authority under this section, the
569 commission shall recognize the defense created for permittees
570 certified under the Responsible Alcohol Vendor Law.

571 **SECTION 14.** Section 67-3-69, Mississippi Code of 1972, is
572 amended as follows:

573 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
574 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
575 this chapter or of any rule or regulation of the commissioner,
576 shall be a misdemeanor and, where the punishment therefor is not
577 elsewhere prescribed herein, shall be punished by a fine of not
578 more than Five Hundred Dollars (\$500.00) or imprisonment for not
579 more than six (6) months, or both, in the discretion of the court.
580 If any person so convicted shall be the holder of any permit or
581 license issued by the commissioner under authority of this
582 chapter, such permit or license shall from and after the date of
583 such conviction be void and the holder thereof shall not
584 thereafter, for a period of one (1) year from the date of such
585 conviction, be entitled to any permit or license for any purpose
586 authorized by this chapter. Upon conviction of the holder of any
587 permit or license, the appropriate law enforcement officer shall
588 seize the permit or license and transmit it to the commissioner.

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

594 or by both such fine and imprisonment, in the discretion of the
595 court.

596 (b) Any person who shall violate any provision of
597 Section 67-3-57 shall be guilty of a misdemeanor, and upon
598 conviction thereof, shall be punished by a fine of not more than
599 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
600 jail for not more than one (1) year, or by both, in the discretion
601 of the court. Any person convicted of violating any provision of
602 the sections referred to in this subsection shall forfeit his
603 permit, and shall not thereafter be permitted to engage in any
604 business taxable under the provisions of Sections 27-71-301
605 through 27-71-347.

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

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

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

623 (c) For a third or subsequent offense occurring on the
624 licensed premises within twelve (12) months of the first, by a
625 fine of not less than One Thousand Dollars (\$1,000.00) nor more
626 than Five Thousand Dollars (\$5,000.00) and/or the sale of beer or

627 wine on the premises from which the sale occurred may be
628 prohibited for one (1) year.

629 (4) For the purposes of subsections (3)(a) and (3)(b) of
630 this section, the actions of an employee of a holder of a permit
631 shall not be attributable to the holder of the permit if:

632 (a) All employees of the holder who are servers as
633 defined in the Responsible Alcohol Vender Law possessed a valid
634 server's certification at the time of the violation or all servers
635 had applied for server's certification within thirty (30) days
636 after commencing employment; and

637 (b) The holder was without knowledge of the violation
638 or did not participate in or commit such violation.

639 (5) A person who sells any beer or wine to a person under
640 the age of twenty-one (21) years shall not be guilty of a
641 violation of Section 67-3-53(b) if the person under the age of
642 twenty-one (21) years represents himself to be twenty-one (21)
643 years of age or older by displaying an apparently valid
644 Mississippi driver's license containing a physical description
645 consistent with his appearance or by displaying some other
646 apparently valid identification document containing a picture and
647 physical description consistent with his appearance for the
648 purpose of inducing the person to sell beer or wine to him.

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

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

656 (b) For a second offense occurring within twelve (12)
657 months of the first offense, the holder of a permit to operate a
658 brewpub may be fined an amount not to exceed One Thousand Dollars
659 (\$1,000.00).

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

665 **SECTION 15.** This act shall take effect and be in force from
666 and after July 1, 2004.