

By: Representative Janus

To: Ways and Means

## HOUSE BILL NO. 183

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 provider to conduct an alcohol server  
59 education course wherein the successful completion of the course  
60 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           67-1-37. The State Tax Commission, under its duties and  
137 powers with respect to the Alcoholic Beverage Control Division  
138 therein, shall have the following powers, functions and duties:

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

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

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

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

168 secure the use of proper ingredients and methods of manufacture of  
169 alcoholic beverages.

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

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

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

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

198 (i) To call upon other administrative departments of  
199 the state, county and municipal governments, county and city  
200 police departments and upon prosecuting officers for such

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

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

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

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

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

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

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

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

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

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

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

254           67-1-71. The commission may revoke or suspend any permit  
255 issued by it for a violation by the permittee of any of the  
256 provisions of this chapter or of the regulations promulgated under  
257 it by the commission.

258           Permits must be revoked or suspended for the following  
259 causes:

260           (a) Conviction of the permittee for the violation of  
261 any of the provisions of this chapter;

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

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



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

271 (e) The possession on the premises of any retail  
272 permittee of any alcoholic beverages upon which the tax has not  
273 been paid;

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

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

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

283 (i) The conducting of any form of illegal gambling on  
284 the premises of any permittee or on any premises connected  
285 therewith or the presence on any such premises of any gambling  
286 device with the knowledge of the permittee.

287 The provisions of paragraph (i) of this section shall not  
288 apply to gambling or the presence of any gambling devices, with  
289 knowledge of the permittee, on board a cruise vessel in the waters  
290 within the State of Mississippi, which lie adjacent to the State  
291 of Mississippi south of the three (3) most southern counties in  
292 the State of Mississippi, or on any vessel as defined in Section  
293 27-109-1 whenever such vessel is on the Mississippi River or  
294 navigable waters within any county bordering on the Mississippi  
295 River. The commission may, in its discretion, issue on-premises  
296 retailer's permits to a common carrier of the nature described in  
297 this paragraph.

298           In exercising its authority under this section, the  
299           commission shall recognize the defense created for permittees  
300           certified under the Responsible Alcohol Vendor Law.

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

304           In addition to the causes specified in this section and other  
305           provisions of this chapter, the commission shall be authorized to  
306           suspend the permit of any permit holder for being out of  
307           compliance with an order for support, as defined in Section  
308           93-11-153. The procedure for suspension of a permit for being out  
309           of compliance with an order for support, and the procedure for the  
310           reissuance or reinstatement of a permit suspended for that  
311           purpose, and the payment of any fees for the reissuance or  
312           reinstatement of a permit suspended for that purpose, shall be  
313           governed by Section 93-11-157 or 93-11-163, as the case may be.  
314           If there is any conflict between any provision of Section  
315           93-11-157 or 93-11-163 and any provision of this chapter, the  
316           provisions of Section 93-11-157 or 93-11-163, as the case may be,  
317           shall control.

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

320           67-1-81. (1) (a) Any permittee or other person who shall  
321           sell, furnish, dispose of, give, or cause to be sold, furnished,  
322           disposed of, or given, any alcoholic beverage to any person under  
323           the age of twenty-one (21) years shall be guilty of a misdemeanor  
324           and shall be punished by a fine of not less than Five Hundred  
325           Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)  
326           for a first offense. For a second or subsequent offense, such  
327           permittee or other person shall be punished by a fine of not less  
328           than One Thousand Dollars (\$1,000.00) nor more than Two Thousand  
329           Dollars (\$2,000.00), or by imprisonment for not more than one (1)  
330           year, or by both such fine and imprisonment in the discretion of

331 the court. Upon conviction of a second offense under the  
332 provisions of this section the permit of any permittee so  
333 convicted shall be automatically and permanently revoked.

334 (b) For the purposes of this subsection, the actions of  
335 an employee of a permittee shall not be attributable to the  
336 permittee if:

337 (i) All employees of the permittee who are servers  
338 as defined in the Responsible Alcohol Vendor Law possessed a valid  
339 server's certification at the time of the violation or all servers  
340 had applied for server's certification within thirty (30) days  
341 after the commencing employment; and

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

344 (2) Any person under the age of twenty-one (21) years who  
345 purchases, receives, or has in his or her possession in any public  
346 place, any alcoholic beverages, shall be guilty of a misdemeanor  
347 and shall be punished by a fine of not less than Two Hundred  
348 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).  
349 Provided, that clearing or busing tables that have glasses or  
350 other containers that contain or did contain alcoholic beverages,  
351 or stocking, bagging or otherwise handling purchases of alcoholic  
352 beverages shall not be deemed possession of alcoholic beverages  
353 for the purposes of this section. Provided further, that a person  
354 who is at least eighteen (18) years of age but under the age of  
355 twenty-one (21) years who waits on tables by taking orders for or  
356 delivering orders of alcoholic beverages shall not be deemed to  
357 unlawfully possess or furnish alcoholic beverages if in the scope  
358 of his employment by the holder of an on-premises retailer's  
359 permit. This exception shall not authorize a person under the age  
360 of twenty-one (21) to tend bar or act in the capacity of  
361 bartender. Any person under the age of twenty-one (21) who  
362 knowingly makes a false statement to the effect that he or she is  
363 twenty-one (21) years old or older to any person engaged in the

364 sale of alcoholic beverages for the purpose of obtaining the same  
365 shall be guilty of a misdemeanor and shall be punished by a fine  
366 of not less than Two Hundred Dollars (\$200.00) nor more than Five  
367 Hundred Dollars (\$500.00), and a sentence to not more than thirty  
368 (30) days' community service.

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

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

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

395 67-3-29. (1) The commissioner shall revoke any permit  
396 granted by authority of this chapter to any person who shall

397 violate any of the provisions of this chapter or the revenue laws  
398 of this state relating to engaging in transporting, storing,  
399 selling, distributing, possessing, receiving or manufacturing of  
400 wines or beers, or any person who shall hereafter be convicted of  
401 the unlawful sale of intoxicating liquor, or any person who shall  
402 allow or permit any form of illegal gambling or immorality on the  
403 premises described in such permit. The commissioner shall not  
404 revoke or suspend a permit of a retailer for the sale of light  
405 wine or beer to a person under the age of twenty-one (21) years  
406 until there has been a conviction of the permit holder or an  
407 employee of the permit holder for such violation.

408 (2) If any person exercising any privilege taxable under the  
409 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,  
410 shall willfully neglect or refuse to comply with the provisions of  
411 such chapter, or any rules or regulations promulgated by the  
412 commissioner under authority of such chapter, or the provisions of  
413 this chapter, the commissioner shall be authorized to revoke the  
414 permit theretofore issued to such person, after giving to such  
415 person ten (10) days notice of the intention of the commissioner  
416 to revoke such permit. The commissioner may, however, suspend  
417 such permit instead of revoking same if, in his opinion,  
418 sufficient cause is shown for a suspension rather than revocation.  
419 Any person whose permit shall have been revoked by the  
420 commissioner shall be thereafter prohibited from exercising any  
421 privilege under the provisions of Chapter 71 of Title 27,  
422 Mississippi Code of 1972, for a period of two (2) years from the  
423 date of such revocation. The commissioner may, however, for good  
424 cause shown, grant a new permit upon such conditions as the  
425 commissioner may prescribe. Any person whose permit shall have  
426 been suspended by the commissioner shall be prohibited from  
427 exercising any privilege under the provisions of Chapter 71 of  
428 Title 27, Mississippi Code of 1972, during the period of such  
429 suspension. Failure of such person to comply with the terms of

430 the suspension shall be cause for revocation of his permit, in  
431 addition to the other penalties provided by law.

432 (3) In addition to the reasons specified in this section and  
433 other provisions of this chapter, the commissioner shall be  
434 authorized to suspend the permit of any permit holder for being  
435 out of compliance with an order for support, as defined in Section  
436 93-11-153. The procedure for suspension of a permit for being out  
437 of compliance with an order for support, and the procedure for the  
438 reissuance or reinstatement of a permit suspended for that  
439 purpose, and the payment of any fees for the reissuance or  
440 reinstatement of a permit suspended for that purpose, shall be  
441 governed by Section 93-11-157 or Section 93-11-163, as the case  
442 may be. If there is any conflict between any provision of Section  
443 93-11-157 or Section 93-11-163 and any provision of this chapter,  
444 the provisions of Section 93-11-157 or 93-11-163, as the case may  
445 be, shall control.

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

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

451 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,  
452 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of  
453 this chapter or of any rule or regulation of the commissioner,  
454 shall be a misdemeanor and, where the punishment therefor is not  
455 elsewhere prescribed herein, shall be punished by a fine of not  
456 more than Five Hundred Dollars (\$500.00) or imprisonment for not  
457 more than six (6) months, or both, in the discretion of the court.  
458 If any person so convicted shall be the holder of any permit or  
459 license issued by the commissioner under authority of this  
460 chapter, such permit or license shall from and after the date of  
461 such conviction be void and the holder thereof shall not  
462 thereafter, for a period of one (1) year from the date of such

463 conviction, be entitled to any permit or license for any purpose  
464 authorized by this chapter. Upon conviction of the holder of any  
465 permit or license, the appropriate law enforcement officer shall  
466 seize the permit or license and transmit it to the commissioner.

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

474 (b) Any person who shall violate any provision of  
475 Section 67-3-57 shall be guilty of a misdemeanor, and upon  
476 conviction thereof, shall be punished by a fine of not more than  
477 One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
478 jail for not more than one (1) year, or by both, in the discretion  
479 of the court. Any person convicted of violating any provision of  
480 the sections referred to in this subsection shall forfeit his  
481 permit, and shall not thereafter be permitted to engage in any  
482 business taxable under the provisions of Sections 27-71-301  
483 through 27-71-347.

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

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

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

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

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

510 (a) All employees of the holder who are servers as  
511 defined in the Responsible Alcohol Vendor Law possessed a valid  
512 server's certification at the time of the violation or all servers  
513 had applied for server's certification within thirty (30) days  
514 after commencing employment; and

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

517 (5) A person who sells any beer or wine to a person under  
518 the age of twenty-one (21) years shall not be guilty of a  
519 violation of Section 67-3-53(b) if the person under the age of  
520 twenty-one (21) years represents himself to be twenty-one (21)  
521 years of age or older by displaying an apparently valid  
522 Mississippi driver's license containing a physical description  
523 consistent with his appearance or by displaying some other  
524 apparently valid identification document containing a picture and  
525 physical description consistent with his appearance for the  
526 purpose of inducing the person to sell beer or wine to him.



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

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

534           (b) For a second offense occurring within twelve (12)  
535 months of the first offense, the holder of a permit to operate a  
536 brewpub may be fined an amount not to exceed One Thousand Dollars  
537 (\$1,000.00).

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

543           **SECTION 15.** This act shall take effect and be in force from  
544 and after July 1, 2005.