

By: Senator(s) Wilemon

To: Finance

SENATE BILL NO. 2442

1 AN ACT TO AMEND SECTION 67-1-37, MISSISSIPPI CODE OF 1972, TO  
 2 MAKE IT CLEAR THAT THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF THE  
 3 STATE TAX COMMISSION SHALL NOT ALLOW THE SALE OR CONSUMPTION OF  
 4 ALCOHOLIC BEVERAGES ON THE CAMPUS OF ANY COMMUNITY COLLEGE, JUNIOR  
 5 COLLEGE OR UNIVERSITY; TO MAKE IT CLEAR THAT THE ALCOHOLIC  
 6 BEVERAGE CONTROL DIVISION OF THE STATE TAX COMMISSION SHALL NOT  
 7 ALLOW THE SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES AT ANY PUBLIC  
 8 ATHLETIC EVENT AT ANY COMMUNITY COLLEGE, JUNIOR COLLEGE OR  
 9 UNIVERSITY; AND FOR RELATED PURPOSES.

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

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

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

14 67-1-37. The State Tax Commission, under its duties and  
 15 powers with respect to the Alcoholic Beverage Control Division  
 16 therein, shall have the following powers, functions and duties:

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

21 (b) To revoke, suspend or cancel, for violation of or  
 22 noncompliance with the provisions of this chapter, or the law  
 23 governing the production and sale of native wines, or any lawful  
 24 rules and regulations of the commission issued hereunder, or for  
 25 other sufficient cause, any permit issued by it under the  
 26 provisions of this chapter; however, no such permit shall be  
 27 revoked, suspended or cancelled except after a hearing of which  
 28 the permit holder shall have been given reasonable notice and an  
 29 opportunity to be heard. The board shall be authorized to suspend  
 30 the permit of any permit holder for being out of compliance with

31 an order for support, as defined in Section 93-11-153. The  
32 procedure for suspension of a permit for being out of compliance  
33 with an order for support, and the procedure for the reissuance or  
34 reinstatement of a permit suspended for that purpose, and the  
35 payment of any fees for the reissuance or reinstatement of a  
36 permit suspended for that purpose, shall be governed by Section  
37 93-11-157 or Section 93-11-163, as the case may be. If there is  
38 any conflict between any provision of Section 93-11-157 or Section  
39 93-11-163 and any provision of this chapter, the provisions of  
40 Section 93-11-157 or Section 93-11-163, as the case may be, shall  
41 control.

42 (c) To prescribe forms of permits and applications for  
43 permits and of all reports which it deems necessary in  
44 administering this chapter.

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

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

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

59 (g) Subject to the provisions of subsection (3) of  
60 Section 67-1-51, to issue rules and regulations governing the  
61 issuance of retail permits for premises located near or around  
62 schools, colleges, universities, churches and other public  
63 institutions, and specifying the distances therefrom within which

64 no such permit shall be issued. The Alcoholic Beverage Control  
65 Division shall not allow the sale or consumption of alcoholic  
66 beverages in or on the campus of any public school, community or  
67 junior college, college or university, and no alcoholic beverage  
68 shall be for sale or consumed at any public athletic event at  
69 any \* \* \* school, community or junior college, college or  
70 university.

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

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

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

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

95 (l) In the conduct of any hearing authorized to be held  
96 by the commission, to hear testimony and take proof material for

97 its information in the discharge of its duties under this chapter  
98 to issue subpoenas, which shall be effective in any part of this  
99 state, requiring the attendance of witnesses and the production of  
100 books and records; to administer or cause to be administered  
101 oaths; and to examine or cause to be examined any witness under  
102 oath. Any court of record, or any judge thereof, may by order  
103 duly entered require the attendance of witnesses and the  
104 production of relevant books subpoenaed by the commission, and  
105 such court or judge may compel obedience to its or his order by  
106 proceedings for contempt.

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

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

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

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

127 (q) To adopt and promulgate rules and regulations for  
128 suspension or revocation of identification cards of employees of

129 permittees for violations of the alcoholic beverage control laws,  
130 rules or regulations.

131 (r) To enforce the provisions made unlawful by Sections  
132 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

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

135 67-1-37. The State Tax Commission, under its duties and  
136 powers with respect to the Alcoholic Beverage Control Division  
137 therein, shall have the following powers, functions and duties:

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

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

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

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

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

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

179 (g) Subject to the provisions of subsection (3) of  
180 Section 67-1-51, to issue rules and regulations governing the  
181 issuance of retail permits for premises located near or around  
182 schools, colleges, universities, churches and other public  
183 institutions, and specifying the distances therefrom within which  
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186 beverages in or on the campus of any public school, community or  
187 junior college, college or university, and no alcoholic beverage  
188 shall be for sale or consumed at any public athletic event at  
189 any \* \* \* school, community or junior college, college or  
190 university.

191 (h) To adopt and promulgate, repeal and amend, such  
192 rules, regulations, standards, requirements and orders, not  
193 inconsistent with this chapter or any law of this state or of the  
194 United States, as it deems necessary to control the manufacture,

195 importation, transportation, distribution and sale of alcoholic  
196 liquor, whether intended for beverage or nonbeverage use in a  
197 manner not inconsistent with the provisions of this chapter or any  
198 other statute, including the native wine laws.

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

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

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

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

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

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

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

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

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

251           **SECTION 2.** This act shall take effect and be in force from  
252 and after its passage.