

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
184 no such permit shall be issued. The Alcoholic Beverage Control
185 Division shall not allow the sale or consumption of alcoholic
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.