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Chapter No. 470
16/SS01/R406.1
LR 13B/R

SENATE BILL NO. 2055

Originated in Senate

LR Welch

Secretary

SENATE BILL NO. 2055

AN ACT TO AMEND SECTION 67-1-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A PERSON IS CONVICTED OF POSSESSION OF ALCOHOLIC BEVERAGES, BEER OR LIGHT WINE IN A LOCATION IN WHICH SUCH POSSESSION IS PROHIBITED BY LAW OR CONVICTED OF UNDERAGE POSSESSION OF ALCOHOLIC BEVERAGES, BEER OR LIGHT WINE, THE ALCOHOLIC BEVERAGE, LIGHT WINE, BEER OR RAW MATERIAL THAT IS SEIZED IN CONNECTION WITH SUCH VIOLATION MAY BE DISPOSED OF IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF REVENUE; TO AMEND SECTIONS 67-1-37 AND 67-3-74, MISSISSIPPI CODE OF 1972, TO EXPAND THE CRIMES INVOLVING BEER AND ALCOHOLIC BEVERAGES THAT THE DEPARTMENT OF REVENUE IS AUTHORIZED TO ENFORCE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 67-1-18, Mississippi Code of 1972, is amended as follows:

67-1-18. (1) Any alcoholic beverage, light wine, beer or raw material seized under the authority of this chapter, Chapter 3 of Title 67, or Chapter 31 of Title 97, Mississippi Code of 1972, shall be submitted to the custody of the Mississippi Department of Revenue for disposition.

(2) (a) Except as otherwise provided in this paragraph, the department shall not dispose of any alcoholic beverage, light

wine, beer or raw material without first * * * providing reasonable notice to all individuals having an interest in the property and an opportunity for them to appear and establish their right or claim to the property. If no * * * hearing is requested by the passage of the appropriate deadline, the department shall require the alcoholic beverages, light wine, beer or raw materials to be sold for the benefit of the state or destroyed.

(b) The provisions of paragraph (a) of this subsection shall not apply in cases in which the owner or possessor of the alcoholic beverage, light wine, beer or raw material is convicted of possession of alcoholic beverages, beer or light wine in a location in which such possession is prohibited by law, or convicted of a violation of Section 67-1-81(2) or 67-3-70. In such cases, the alcoholic beverage, light wine, beer or raw materials seized in connection with the violation may be disposed of in the manner prescribed by the department.

(3) (a) If the department orders the property, other than alcoholic beverages, sold, then the property shall be sold to the highest bidder, the bidder being any person, firm or government agency. The offer for sale shall be made to not less than three (3) qualified prospective buyers, by mailing them an invitation to bid, which shall describe the property, terms of sale, method of delivery, manner of bidding and fixing a time of not more than fifteen (15) days from the date of invitation for opening of bids received by the department.

(b) All bids and payment shall be made in the manner as prescribed by the department. Bids, after opening, shall be subject to public inspection.

(4) If the department orders the sale of seized alcoholic beverages, it may place the alcoholic beverages in the state inventory to be sold to authorized retailers in the same manner as other alcoholic beverages in the state inventory are sold.

(5) Any appeal from a seizure and disposal made under this section shall be made pursuant to Section 67-1-72.

SECTION 2. Section 67-1-37, Mississippi Code of 1972, is amended as follows:

67-1-37. (1) The Department of Revenue, under its duties and powers with respect to the Alcoholic Beverage Control Division therein, shall have the following powers, functions and duties:

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

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the department issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this chapter. The department shall also be authorized to suspend the permit of any permit holder for being

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

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

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

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

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcoholic beverages offered for sale within this state and providing for the standards of fill and

shapes of retail containers of alcoholic beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

(g) Subject to the provisions of subsection (3) of Section 67-1-51, to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying the distances therefrom within which no such permit shall be issued. The Alcoholic Beverage Control Division shall not issue a package retailer's or on-premises retailer's permit for the sale or consumption of alcoholic beverages in or on the campus of any public school, community or junior college, college or university.

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

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

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

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

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

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

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

(n) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcoholic beverages and to take any other action concerning persons employed under this chapter as authorized by law and taken in accordance

with the rules, regulations and procedures of the State Personnel Board.

(o) To enforce the provisions made unlawful by * * * Chapter 3, Title 67 and Section 97-5-49.

(p) To delegate its authority under this chapter to the Alcoholic Beverage Control Division, its director or any other officer or employee of the department that it deems appropriate.

(2) No alcoholic beverage shall be sold or consumed at any public athletic event at any public school, community or junior college, college or university.

SECTION 3. Section 67-3-74, Mississippi Code of 1972, is amended as follows:

67-3-74. (1) In addition to peace officers within their jurisdiction, all enforcement officers of the Alcoholic Beverage Control Division of the Department of Revenue are authorized to enforce the provisions made unlawful by * * * this chapter and * * * Section 97-5-49; * * * however, * * * the provisions prohibiting the sale of light wine or beer to persons under the age of twenty-one (21) years shall be enforced by the division as provided for in this section.

(2) (a) The Alcoholic Beverage Control Division shall investigate violations of the laws prohibiting the sale of light wine or beer to persons under the age of twenty-one (21) years upon receipt of a complaint or information from a person stating that they have knowledge of such violation.

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

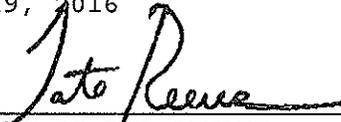
(c) If an enforcement officer of the Alcoholic Beverage Control Division enters the business of the holder of the permit to investigate a complaint and discovers a violation, the agent shall notify the person that committed the violation and the holder of the permit:

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

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

SECTION 4. This act shall take effect and be in force from
and after July 1, 2016.

PASSED BY THE SENATE
April 19, 2016



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 19, 2016



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

May 11, 2016
8:46 AM