

By: Senator(s) Canon

To: Judiciary

## SENATE BILL NO. 2725

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THAT HONORABLY RETIRED LAW ENFORCEMENT OFFICERS ARE  
3 EXEMPT FROM PAYMENT OF ANY FEE TO OBTAIN A LICENSE TO CARRY A  
4 CONCEALED WEAPON; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE  
5 LEGISLATURE OF THE STATE OF MISSISSIPPI:

6  
7 SECTION 1. Section 45-9-101, Mississippi Code of 1972, is  
8 amended as follows:

9 45-9-101. (1) (a) The Department of Public Safety is  
10 authorized to issue licenses to carry concealed pistols or  
11 revolvers to persons qualified as provided in this section. Such  
12 licenses shall be valid throughout the state for a period of four  
13 (4) years from the date of issuance. Any person possessing a  
14 valid license issued pursuant to this section may carry a  
15 concealed pistol or concealed revolver.

16 (b) The licensee must carry the license, together with  
17 valid identification, at all times in which the licensee is  
18 carrying a concealed pistol or revolver and must display both the  
19 license and proper identification upon demand by a law enforcement  
20 officer. A violation of the provisions of this paragraph (b)  
21 shall constitute a noncriminal violation with a penalty of  
22 Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

23 (2) The Department of Public Safety shall issue a license if  
24 the applicant:

25 (a) Is a resident of the state and has been a resident  
26 for twelve (12) months or longer immediately preceding the filing  
27 of the application;

28 (b) Is twenty-one (21) years of age or older;

29           (c) Does not suffer from a physical infirmity which  
30 prevents the safe handling of a pistol or revolver;

31           (d) Is not ineligible to possess a firearm by virtue of  
32 having been convicted of a felony in a court of this state, of any  
33 other state, or of the United States without having been pardoned  
34 for same;

35           (e) Does not chronically or habitually abuse controlled  
36 substances to the extent that his normal faculties are impaired.  
37 It shall be presumed that an applicant chronically and habitually  
38 uses controlled substances to the extent that his faculties are  
39 impaired if the applicant has been voluntarily or involuntarily  
40 committed to a treatment facility for the abuse of a controlled  
41 substance or been found guilty of a crime under the provisions of  
42 the Uniform Controlled Substances Law or similar laws of any other  
43 state or the United States relating to controlled substances  
44 within a three-year period immediately preceding the date on which  
45 the application is submitted;

46           (f) Does not chronically and habitually use alcoholic  
47 beverages to the extent that his normal faculties are impaired.  
48 It shall be presumed that an applicant chronically and habitually  
49 uses alcoholic beverages to the extent that his normal faculties  
50 are impaired if the applicant has been voluntarily or  
51 involuntarily committed as an alcoholic to a treatment facility or  
52 has been convicted of two (2) or more offenses related to the use  
53 of alcohol under the laws of this state or similar laws of any  
54 other state or the United States within the three-year period  
55 immediately preceding the date on which the application is  
56 submitted;

57           (g) Desires a legal means to carry a concealed pistol  
58 or revolver to defend himself;

59           (h) Has not been adjudicated mentally incompetent, or  
60 has waited five (5) years from the date of his restoration to  
61 capacity by court order;

62           (i) Has not been voluntarily or involuntarily committed  
63 to a mental institution or mental health treatment facility unless  
64 he possesses a certificate from a psychiatrist licensed in this  
65 state that he has not suffered from disability for a period of  
66 five (5) years;

67           (j) Has not had adjudication of guilt withheld or  
68 imposition of sentence suspended on any felony unless three (3)  
69 years have elapsed since probation or any other conditions set by  
70 the court have been fulfilled; and

71           (k) Is not a fugitive from justice.

72           (3) The Department of Public Safety may deny a license if  
73 the applicant has been found guilty of one or more crimes of  
74 violence constituting a misdemeanor unless three (3) years have  
75 elapsed since probation or any other conditions set by the court  
76 have been fulfilled or expunction has occurred prior to the date  
77 on which the application is submitted, or may revoke a license if  
78 the licensee has been found guilty of one or more crimes of  
79 violence within the preceding three (3) years. The department  
80 shall, upon notification by a law enforcement agency or a court  
81 and subsequent written verification, suspend a license or the  
82 processing of an application for a license if the licensee or  
83 applicant is arrested or formally charged with a crime which would  
84 disqualify such person from having a license under this section,  
85 until final disposition of the case. The provisions of  
86 subsection (7) of this section shall apply to any suspension or  
87 revocation of a license pursuant to the provisions of this  
88 section.

89           (4) The application shall be completed, under oath, on a  
90 form promulgated by the Department of Public Safety and shall  
91 include only:

92           (a) The name, address, place and date of birth, race,  
93 sex and occupation of the applicant;

94           (b) The driver's license number or Social Security

95 number of applicant;

96 (c) Any previous address of the applicant for the two  
97 (2) years preceding the date of the application;

98 (d) A statement that the applicant is in compliance  
99 with criteria contained within subsections (2) and (3) of this  
100 section;

101 (e) A statement that the applicant has been furnished a  
102 copy of this section and is knowledgeable of its provisions;

103 (f) A conspicuous warning that the application is  
104 executed under oath and that a knowingly false answer to any  
105 question, or the knowing submission of any false document by the  
106 applicant, subjects the applicant to criminal prosecution; and

107 (g) A statement that the applicant desires a legal  
108 means to carry a concealed pistol or revolver to defend himself.

109 (5) The applicant shall submit only the following to the  
110 Department of Public Safety:

111 (a) A completed application as described in subsection  
112 (4) of this section;

113 (b) A full-face photograph of the applicant;

114 (c) A nonrefundable license fee of One Hundred Dollars  
115 (\$100.00). Costs for processing the set of fingerprints as  
116 required in paragraph (c) of this subsection shall be borne by the  
117 applicant. Honorably retired law enforcement officers shall be  
118 exempt from the payment of the license fee as well as any other  
119 associated fee or fees;

120 (d) A full set of fingerprints of the applicant  
121 administered by the Department of Public Safety; and

122 (e) A waiver authorizing the Department of Public  
123 Safety access to any records concerning commitments of the  
124 applicant to any of the treatment facilities or institutions  
125 referred to in subsection (2) and permitting access to all the  
126 applicant's criminal records.

127 (6) (a) The Department of Public Safety, upon receipt of

128 the items listed in subsection (5) of this section, shall forward  
129 the full set of fingerprints of the applicant to the appropriate  
130 agencies for state and federal processing.

131 (b) The Department of Public Safety shall forward a  
132 copy of the applicant's application to the sheriff of the  
133 applicant's county of residence and, if applicable, the police  
134 chief of the applicant's municipality of residence. The sheriff  
135 of the applicant's county of residence and, if applicable, the  
136 police chief of the applicant's municipality of residence may, at  
137 his discretion, participate in the process by submitting a  
138 voluntary report to the Department of Public Safety containing any  
139 readily discoverable prior information that he feels may be  
140 pertinent to the licensing of any applicant. The reporting shall  
141 be made within thirty (30) days after the date he receives the  
142 copy of the application. Upon receipt of a response from a  
143 sheriff or police chief, such sheriff or police chief shall be  
144 reimbursed at a rate set by the department.

145 (c) The Department of Public Safety shall, within one  
146 hundred twenty (120) days after the date of receipt of the items  
147 listed in subsection (5) of this section:

148 (i) Issue the license; or

149 (ii) Deny the application based solely on the  
150 ground that the applicant fails to qualify under the criteria  
151 listed in subsections (2) and (3) of this section. If the  
152 Department of Public Safety denies the application, it shall  
153 notify the applicant in writing, stating the ground for denial,  
154 and the denial shall be subject to the appeal process set forth in  
155 subsection (7).

156 (d) In the event a legible set of fingerprints, as  
157 determined by the Department of Public Safety and the Federal  
158 Bureau of Investigation, cannot be obtained after a minimum of  
159 three (3) attempts, the Department of Public Safety shall  
160 determine eligibility based upon a name check by the Mississippi

161 Highway Safety Patrol and a Federal Bureau of Investigation name  
162 check conducted by the Mississippi Highway Safety Patrol at the  
163 request of the Department of Public Safety.

164 (7) (a) If the Department of Public Safety denies the  
165 issuance of a license, or suspends or revokes a license, the party  
166 aggrieved may appeal such denial, suspension or revocation to the  
167 Commissioner of Public Safety, or his authorized agent, within  
168 thirty (30) days after the aggrieved party receives written notice  
169 of such denial, suspension or revocation. The Commissioner of  
170 Public Safety, or his duly authorized agent, shall rule upon such  
171 appeal within thirty (30) days after the appeal is filed and  
172 failure to rule within this thirty-day period shall constitute  
173 sustaining such denial, suspension or revocation. Such review  
174 shall be conducted pursuant to such reasonable rules and  
175 regulations as the Commissioner of Public Safety may adopt.

176 (b) If the revocation, suspension or denial of issuance  
177 is sustained by the Commissioner of Public Safety, or his duly  
178 authorized agent pursuant to paragraph (a) of this subsection, the  
179 aggrieved party may file within ten (10) days after the rendition  
180 of such decision a petition in the circuit or county court of his  
181 residence for review of such decision. A hearing for review shall  
182 be held and shall proceed before the court without a jury upon the  
183 record made at the hearing before the Commissioner of Public  
184 Safety or his duly authorized agent. No such party shall be  
185 allowed to carry a concealed pistol or revolver pursuant to the  
186 provisions of this section while any such appeal is pending.

187 (8) The Department of Public Safety shall maintain an  
188 automated listing of license holders and such information shall be  
189 available on-line, upon request, at all times, to all law  
190 enforcement agencies through the Mississippi Crime Information  
191 Center. However, the records of the department relating to  
192 applications for licenses to carry concealed pistols or revolvers  
193 and records relating to license holders shall be exempt from the

194 provisions of the Mississippi Public Records Act of 1983 for a  
195 period of forty-five (45) days from the date of the issuance of  
196 the license or the final denial of an application.

197 (9) Within thirty (30) days after the changing of a  
198 permanent address, or within thirty (30) days after having a  
199 license lost or destroyed, the licensee shall notify the  
200 Department of Public Safety in writing of such change or loss.  
201 Failure to notify the Department of Public Safety pursuant to the  
202 provisions of this subsection shall constitute a noncriminal  
203 violation with a penalty of Twenty-five Dollars (\$25.00) and shall  
204 be enforceable by a summons.

205 (10) In the event that a concealed pistol or revolver  
206 license is lost or destroyed, the person to whom the license was  
207 issued shall comply with the provisions of subsection (9) of this  
208 section and may obtain a duplicate, or substitute thereof, upon  
209 payment of Fifteen Dollars (\$15.00) to the Department of Public  
210 Safety, and furnishing a notarized statement to the department  
211 that such license has been lost or destroyed.

212 (11) A license issued under this section shall be revoked if  
213 the licensee becomes ineligible under the criteria set forth in  
214 subsection (2) of this section.

215 (12) No less than ninety (90) days prior to the expiration  
216 date of the license, the Department of Public Safety shall mail to  
217 each licensee a written notice of the expiration and a renewal  
218 form prescribed by the department. The licensee must renew his  
219 license on or before the expiration date by filing with the  
220 department the renewal form, a notarized affidavit stating that  
221 the licensee remains qualified pursuant to the criteria specified  
222 in subsections (2) and (3) of this section, and a renewal fee of  
223 Fifty Dollars (\$50.00); provided, however, that honorably retired  
224 law enforcement officers shall be exempt from this renewal fee.  
225 The license shall be renewed upon receipt of the completed renewal  
226 application and appropriate payment of fees. Additionally, a

227 licensee who fails to file a renewal application on or before its  
228 expiration date must renew his license by paying a late fee of  
229 Fifteen Dollars (\$15.00). No license shall be renewed six (6)  
230 months or more after its expiration date, and such license shall  
231 be deemed to be permanently expired. A person whose license has  
232 been permanently expired may reapply for licensure; however, an  
233 application for licensure and fees pursuant to subsection (5) of  
234 this section must be submitted, and a background investigation  
235 shall be conducted pursuant to the provisions of this section.

236 (13) No license issued pursuant to this section shall  
237 authorize any person to carry a concealed pistol or revolver into  
238 any place of nuisance as defined in Section 95-3-1, Mississippi  
239 Code of 1972; any police, sheriff or highway patrol station; any  
240 detention facility, prison or jail; any courthouse; any courtroom,  
241 except that nothing in this section shall preclude a judge from  
242 carrying a concealed weapon or determining who will carry a  
243 concealed weapon in his courtroom; any polling place; any meeting  
244 place of the governing body of any governmental entity; any  
245 meeting of the Legislature or a committee thereof; any public park  
246 unless for the purpose of participating in any authorized  
247 firearms-related activity; any school, college or professional  
248 athletic event not related to firearms; any portion of an  
249 establishment, licensed to dispense alcoholic beverages for  
250 consumption on the premises, that is primarily devoted to  
251 dispensing alcoholic beverages; any portion of an establishment in  
252 which beer or light wine is consumed on the premises, that is  
253 primarily devoted to such purpose; any elementary or secondary  
254 school facility; any junior college, community college, college or  
255 university facility unless for the purpose of participating in any  
256 authorized firearms-related activity; inside the passenger  
257 terminal of any airport, except that no person shall be prohibited  
258 from carrying any legal firearm into the terminal if the firearm  
259 is encased for shipment, for purposes of checking such firearm as



260 baggage to be lawfully transported on any aircraft; any church or  
261 other place of worship; or any place where the carrying of  
262 firearms is prohibited by federal law. In addition to the places  
263 enumerated in this subsection, the carrying of a concealed pistol  
264 or revolver may be disallowed in any place in the discretion of  
265 the person or entity exercising control over the physical location  
266 of such place by the placing of a written notice clearly readable  
267 at a distance of not less than ten (10) feet that the "carrying of  
268 a pistol or revolver is prohibited." No license issued pursuant  
269 to this section shall authorize the participants in a parade or  
270 demonstration for which a permit is required to carry a concealed  
271 pistol or revolver.

272 (14) A law enforcement officer as defined in Section 45-6-3,  
273 chiefs of police, sheriffs and persons licensed as professional  
274 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of  
275 1972, shall be exempt from the licensing requirements of this  
276 section.

277 (15) Any person who knowingly submits a false answer to any  
278 question on an application for a license issued pursuant to this  
279 section, or who knowingly submits a false document when applying  
280 for a license issued pursuant to this section, shall, upon  
281 conviction, be guilty of a misdemeanor and shall be punished as  
282 provided in Section 99-19-31, Mississippi Code of 1972.

283 (16) All fees collected by the Department of Public Safety  
284 pursuant to this section shall be deposited into a special fund  
285 hereby created in the State Treasury and shall be used for  
286 implementation and administration of this section. After the  
287 close of each fiscal year the balance in this fund shall be  
288 certified to the Legislature and then may be used by the  
289 Department of Public Safety as directed by the Legislature.

290 (17) All funds received by a sheriff or police chief  
291 pursuant to the provisions of this section shall be deposited into  
292 the general fund of the county or municipality, as appropriate,

293 and shall be budgeted to the sheriff's office or police department  
294 as appropriate.

295 (18) Nothing in this section shall be construed to require  
296 or allow the registration, documentation or providing of serial  
297 numbers with regard to any firearm. Further, nothing in this  
298 section shall be construed to allow the open and unconcealed  
299 carrying of any deadly weapon as described in Section 97-37-1,  
300 Mississippi Code of 1972.

301 (19) Any person holding a valid unrevoked and unexpired  
302 license to carry concealed pistols or revolvers issued in another  
303 state having requirements substantially similar to those of this  
304 state shall have such license recognized by this state to carry  
305 concealed pistols or revolvers, provided that the issuing state  
306 authorizes license holders from this state to carry concealed  
307 pistols or revolvers in such issuing state and the appropriate  
308 authority has communicated that fact to the Department of Public  
309 Safety.

310 SECTION 2. This act shall take effect and be in force from  
311 and after its passage.