

By: Harvey

To: Judiciary

SENATE BILL NO. 2477

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT CERTAIN HONORABLY RETIRED LAW ENFORCEMENT OFFICERS FROM
3 THE PAYMENT OF THE FINGERPRINT PROCESSING FEE WHEN OBTAINING A
4 CONCEALED WEAPON PERMIT; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 45-9-101, Mississippi Code of 1972, is
7 amended as follows:[JMR1]

8 45-9-101. (1) (a) The Department of Public Safety is
9 authorized to issue licenses to carry concealed pistols or
10 revolvers to persons qualified as provided in this section. Such
11 licenses shall be valid throughout the state for a period of four
12 (4) years from the date of issuance. Any person possessing a
13 valid license issued pursuant to this section may carry a
14 concealed pistol or concealed revolver.

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

22 (2) The Department of Public Safety shall issue a license if

23 the applicant:

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

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

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

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

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

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

54 immediately preceding the date on which the application is
55 submitted;

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

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

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

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

70 (k) Is not a fugitive from justice.

71 (3) The Department of Public Safety may deny a license if
72 the applicant has been found guilty of one or more crimes of
73 violence constituting a misdemeanor unless three (3) years have
74 elapsed since probation or any other conditions set by the court
75 have been fulfilled or expunction has occurred prior to the date
76 on which the application is submitted, or may revoke a license if
77 the licensee has been found guilty of one or more crimes of
78 violence within the preceding three (3) years. The department
79 shall, upon notification by a law enforcement agency or a court
80 and subsequent written verification, suspend a license or the
81 processing of an application for a license if the licensee or

82 applicant is arrested or formally charged with a crime which would
83 disqualify such person from having a license under this section,
84 until final disposition of the case. The provisions of subsection
85 (7) of this section shall apply to any suspension or revocation of
86 a license pursuant to the provisions of this section.

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

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

92 (b) The driver's license number or social security
93 number of applicant;

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

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

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

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

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

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

109 (a) A completed application as described in subsection

110 (4) of this section;

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

112 (c) A nonrefundable license fee of One Hundred Dollars
113 (\$100.00). Costs for processing the set of fingerprints as
114 required in paragraph (d) of this subsection shall be borne by the
115 applicant, unless the applicant is an honorably retired law
116 enforcement officer with at least twenty (20) years of service in
117 which case the Department of Public Safety shall bear the cost.
118 All honorably retired law enforcement officers shall be exempt
119 from the payment of the license fee;

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 to
269 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 July 1, 2000.