

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 32

1 AN ACT TO AMEND SECTION 97-37-7, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY RECIPROCITY ALLOWING LAW ENFORCEMENT OFFICERS TO CARRY
3 WEAPONS IN OTHER STATES; TO PROVIDE A HEARING FOR LAW ENFORCEMENT
4 OFFICERS CHARGED WITH COMMITTING A CRIME BEFORE AN ARREST CAN BE
5 MADE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-37-7, Mississippi Code of 1972, is
8 amended as follows:

9 97-37-7. (1) It shall not be a violation of Section 97-37-1
10 or any other statute for pistols, firearms or other suitable and
11 appropriate weapons to be carried by duly constituted bank guards,
12 company guards, watchmen, railroad special agents or duly
13 authorized representatives, agents or employees of a patrol
14 service, guard service, or a company engaged in the business of
15 transporting money, securities or other valuables, while actually
16 engaged in the performance of their duties as such, provided that
17 such persons are under bond in a sum of not less than One Thousand
18 Dollars (\$1,000.00) for the lawful and faithful performance of
19 their duties, the cost of which bond shall be paid by the employer
20 of such persons; and further provided that such persons have first
21 made written application and obtained an annual permit so to do
22 from the sheriff of the county in which they are employed.
23 Provided, however, that where the duties of any person covered by
24 the provisions of this paragraph may carry him into more than one
25 (1) county, such person may file a bond in the sum of Two Thousand
26 Dollars (\$2,000.00) with the Commissioner of Public Safety, for
27 the lawful and faithful performance of his duties, the cost of the
28 bond shall be paid by the employer of such person, and provided



29 further that such person has first made written application with
30 and obtained a permit so to do from the Commissioner of Public
31 Safety, and said permit shall be valid as a statewide permit. No
32 such permit shall be issued to any person who has ever been
33 convicted of a felony under the laws of this or any other state or
34 of the United States.

35 (2) It shall further not be a violation of this or any other
36 statute for pistols, firearms or other suitable and appropriate
37 weapons to be carried by Department of Wildlife, Fisheries and
38 Parks law enforcement officers, investigators employed by the
39 Attorney General, district attorneys, legal assistants to district
40 attorneys, criminal investigators employed by the district
41 attorneys, investigators or probation officers employed by the
42 Department of Corrections, employees of the State Auditor who are
43 authorized by the State Auditor to perform investigative
44 functions, or any deputy fire marshal or investigator employed by
45 the State Fire Marshal, while engaged in the performance of their
46 duties as such, or by fraud investigators with the Department of
47 Human Services, or by judges of the Mississippi Supreme Court,
48 Court of Appeals, circuit, chancery, county and municipal courts.
49 Before any person shall be authorized under this subsection to
50 carry a weapon, he shall complete a weapons training course
51 approved by the Board of Law Enforcement Officer Standards and
52 Training. Before any criminal investigator employed by a district
53 attorney shall be authorized under this section to carry a pistol,
54 firearm or other weapon, he shall have complied with Section
55 45-6-11 or any training program required for employment as an
56 agent of the Federal Bureau of Investigation. A law enforcement
57 officer, as defined in Section 45-6-3, shall be authorized to
58 carry weapons in courthouses in performance of his official
59 duties. This section shall in no way interfere with the right of
60 a trial judge to restrict the carrying of firearms in the
61 courtroom.



62 (3) It shall not be a violation of this or any other statute
63 for pistols, firearms or other suitable and appropriate weapons,
64 to be carried by any out-of-state, full-time commissioned law
65 enforcement officer who holds a valid commission card from the
66 appropriate out-of-state law enforcement agency and a photo
67 identification. The provisions of this subsection shall only
68 apply if the state where the out-of-state officer is employed has
69 entered into a reciprocity agreement with the state that allows
70 full-time commissioned law enforcement officers, as defined in
71 Section 45-6-3, in Mississippi to lawfully carry or possess a
72 weapon in such other states. The Commissioner of Public Safety is
73 authorized to enter into reciprocal agreements with other states
74 to carry out the provisions of this subsection.

75 **SECTION 2.** (1) (a) Except as provided in subsection (2) of
76 this section, before an arrest warrant shall be issued against any
77 law enforcement officer as defined in Section 45-6-3 for a
78 criminal act, whether misdemeanor or felony, which is alleged to
79 have occurred while the law enforcement officer was in the
80 performance of the officer's official duties, a probable cause
81 hearing shall be held before a circuit court judge. The purpose
82 of the hearing shall be to determine if adequate probable cause
83 exists for the issuance of a warrant. All parties testifying in
84 these proceedings shall do so under oath. The accused shall have
85 the right to enter an appearance at the hearing, represented by
86 legal counsel at his own expense, to hear the accusations and
87 evidence against him; he may present evidence or testify in his
88 own behalf.

89 (b) The authority receiving any such charge or
90 complaint against a law enforcement officer shall immediately
91 present same to the county prosecuting attorney having
92 jurisdiction who shall immediately present the charge or complaint
93 to a circuit judge in the judicial district where the action arose
94 for disposition pursuant to this section.



95 (2) Nothing in this section shall prohibit the issuance of
96 an arrest warrant by a circuit court judge upon presentation of
97 probable cause, without the holding of a probable cause hearing,
98 if adequate evidence is presented to satisfy the court that there
99 is a significant risk that the accused will flee the court's
100 jurisdiction or that the accused poses a threat to the safety or
101 well-being of the public.

102 **SECTION 3.** This act shall take effect and be in force from
103 and after July 1, 2002.

