

By: Representative Moore (60th)

To: Judiciary B

HOUSE BILL NO. 408

1 AN ACT TO REPEAL SECTION 45-9-101, MISSISSIPPI CODE OF 1972,  
 2 WHICH PROVIDES FOR LICENSES TO CARRY CONCEALED WEAPONS; TO REPEAL  
 3 SECTION 97-37-1, MISSISSIPPI CODE OF 1972, WHICH PROHIBITS  
 4 CARRYING CONCEALED WEAPONS; TO REPEAL SECTION 97-37-9, MISSISSIPPI  
 5 CODE OF 1972, WHICH PROVIDES DEFENSES TO PERSONS CHARGED WITH A  
 6 VIOLATION OF SECTION 97-37-1; TO AMEND SECTIONS 27-104-27,  
 7 37-11-29, 43-21-151, 47-5-191, 97-37-3, 97-37-7 AND 97-37-17,  
 8 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
 9 PURPOSES.

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

11 **SECTION 1.** Section 45-9-101, Mississippi Code of 1972, which  
 12 provides for licenses to carry concealed weapons, is repealed.

13 **SECTION 2.** Section 97-37-1, Mississippi Code of 1972, which  
 14 prohibits carrying concealed weapons, is repealed.

15 **SECTION 3.** Section 97-37-9, Mississippi Code of 1972, which  
 16 provides defenses for persons charged with a violation of Section  
 17 97-37-1, is repealed.

18 **SECTION 4.** Section 27-104-27, Mississippi Code of 1972, is  
 19 amended as follows:

20 27-104-27. Notwithstanding anything in Sections 27-103-101  
 21 through 27-103-139 and 27-104-1 through 27-104-29 contained, the  
 22 same shall not be construed to apply to any agency supported  
 23 wholly by funds granted or allotted under any act of Congress.  
 24 The State Auditor of Public Accounts and after July 1, 1986, the  
 25 State Fiscal Officer shall determine which special fund accounts  
 26 in the State Treasury require an appropriation act and request an  
 27 appropriation for such special fund accounts. For all other  
 28 special fund accounts, the State Auditor of Public Accounts, or  
 29 the State Fiscal Officer after July 1, 1986, shall certify that  
 30 such accounts do not require an appropriation. The Legislative



31 Budget Office shall recommend an appropriation for each special  
32 fund account existing in the State Treasury so certified as  
33 requiring an appropriation, unless exempted as hereinafter  
34 provided. In the event the Legislative Budget Committee and the  
35 State Fiscal Officer find that any state agency should not be  
36 included under the provisions of Sections 27-103-101 through  
37 27-103-139 and 27-104-1 through 27-104-29, then the said committee  
38 and officer may, in their discretion, exempt said state agency  
39 from the provisions thereof. Sections 27-103-101 through  
40 27-103-139 and 27-104-1 through 27-104-29 shall not apply to funds  
41 collected and disbursed by a state agency created and existing  
42 under the provisions of Sections 73-3-101 through 73-3-169.  
43 Sections 27-103-101 through 27-103-139 and 27-104-1 through  
44 27-104-29 shall not apply to funds deposited into \* \* \* the  
45 special fund created pursuant to Section 69-37-39, the special  
46 fund created pursuant to Section 1 of Chapter 521, Laws of 1999,  
47 the special fund created pursuant to Section 31-17-127 or the  
48 special fund created pursuant to Section 65-1-110.

49 The State Fiscal Officer shall not promulgate or attempt to  
50 enforce any rule, order or regulation which is not in accordance  
51 with the provisions of a legally executed trust indenture  
52 agreement, nor shall Sections 27-103-101 through 27-103-139 and  
53 27-104-1 through 27-104-29 be construed to apply to funds  
54 collected and disbursed by a state agency under Sections 65-33-45  
55 and 65-33-47.

56 **SECTION 5.** Section 37-11-29, Mississippi Code of 1972, is  
57 amended as follows:

58 37-11-29. (1) Any principal, teacher or other school  
59 employee who has knowledge of any unlawful activity which occurred  
60 on educational property or during a school related activity or  
61 which may have occurred shall report such activity to the  
62 superintendent of the school district or his designee who shall  
63 notify the appropriate law enforcement officials as required by



64 this section. In the event of an emergency or if the  
65 superintendent or his designee is unavailable, any principal may  
66 make a report required under this subsection.

67 (2) Whenever any person who shall be an enrolled student in  
68 any school or educational institution in this state supported in  
69 whole or in part by public funds, or who shall be an enrolled  
70 student in any private school or educational institution, is  
71 arrested for, and lawfully charged with, the commission of any  
72 crime and convicted upon the charge for which he was arrested, or  
73 convicted of any crime charged against him after his arrest and  
74 before trial, the office or law enforcement department of which  
75 the arresting officer is a member, and the justice court judge and  
76 any circuit judge or court before whom such student is tried upon  
77 said charge or charges, shall make or cause to be made a report  
78 thereof to the superintendent or the president or chancellor, as  
79 the case may be, of the school district or other educational  
80 institution in which such student is enrolled.

81 If the charge upon which such student was arrested, or any  
82 other charges preferred against him are dismissed or nol prossed,  
83 or if upon trial he is either convicted or acquitted of such  
84 charge or charges, same shall be reported to said respective  
85 superintendent or president, or chancellor, as the case may be. A  
86 copy of said report shall be sent to the Secretary of the Board of  
87 Trustees of State Institutions of Higher Learning of the State of  
88 Mississippi, at Jackson, Mississippi.

89 Said report shall be made within one (1) week after the  
90 arrest of such student and within one (1) week after any charge  
91 placed against him is dismissed or nol prossed, and within one (1)  
92 week after he shall have pled guilty, been convicted, or have been  
93 acquitted by trial upon any charge placed against him. This  
94 section shall not apply to ordinary traffic violations involving a  
95 penalty of less than Fifty Dollars (\$50.00) and costs.



96           (3) When the superintendent or his designee has a reasonable  
97 belief that an act has occurred on educational property or during  
98 a school related activity involving any of the offenses set forth  
99 in subsection (6) of this section, the superintendent or his  
100 designee shall immediately report the act to the appropriate local  
101 law enforcement agency. For purposes of this subsection, "school  
102 property" shall include any public school building, bus, public  
103 school campus, grounds, recreational area or athletic field in the  
104 charge of the superintendent. The State Board of Education shall  
105 prescribe a form for making reports required under this  
106 subsection. Any superintendent or his designee who fails to make  
107 a report required by this section shall be subject to the  
108 penalties provided in Section 37-11-15.

109           (4) The law enforcement authority shall immediately dispatch  
110 an officer to the educational institution and with probable cause  
111 the officer is authorized to make an arrest if necessary as  
112 provided in Section 99-3-7.

113           (5) Any superintendent, principal, teacher or other school  
114 personnel participating in the making of a required report  
115 pursuant to this section or participating in any judicial  
116 proceeding resulting therefrom shall be presumed to be acting in  
117 good faith. Any person reporting in good faith shall be immune  
118 from any civil liability that might otherwise be incurred or  
119 imposed.

120           (6) For purposes of this section, "unlawful activity" means  
121 any of the following:

122                   (a) Possession or use of a deadly weapon \* \* \*;

123                   (b) Possession, sale or use of any controlled  
124 substance;

125                   (c) Aggravated assault, as defined in Section 97-3-7;

126                   (d) Simple assault, as defined in Section 97-3-7, upon  
127 any school employee;

128                   (e) Rape, as defined under Mississippi law;



- 129 (f) Sexual battery, as defined under Mississippi law;
- 130 (g) Murder, as defined under Mississippi law;
- 131 (h) Kidnapping, as defined under Mississippi law; or
- 132 (i) Fondling, touching, handling, etc., a child for
- 133 lustful purposes, as defined in Section 97-5-23.

134 **SECTION 6.** Section 43-21-151, Mississippi Code of 1972, is  
135 amended as follows:

136 43-21-151. (1) The youth court shall have exclusive  
137 original jurisdiction in all proceedings concerning a delinquent  
138 child, a child in need of supervision, a neglected child, an  
139 abused child or a dependent child except in the following  
140 circumstances:

141 (a) Any act attempted or committed by a child, which if  
142 committed by an adult would be punishable under state or federal  
143 law by life imprisonment or death, will be in the original  
144 jurisdiction of the circuit court;

145 (b) Any act attempted or committed by a child with the  
146 use of a deadly weapon \* \* \*, or a shotgun or a rifle, which would  
147 be a felony if committed by an adult, will be in the original  
148 jurisdiction of the circuit court; and

149 (c) When a charge of abuse of a child first arises in  
150 the course of a custody action between the parents of the child  
151 already pending in the chancery court and no notice of such abuse  
152 was provided prior to such chancery proceedings, the chancery  
153 court may proceed with the investigation, hearing and  
154 determination of such abuse charge as a part of its hearing and  
155 determination of the custody issue as between the parents,  
156 notwithstanding the other provisions of the Youth Court Law. The  
157 proceedings in chancery court on the abuse charge shall be  
158 confidential in the same manner as provided in youth court  
159 proceedings.



160           When a child is expelled from the public schools, the youth  
161 court shall be notified of the act of expulsion and the act or  
162 acts constituting the basis for expulsion.

163           (2) Jurisdiction of the child in the cause shall attach at  
164 the time of the offense and shall continue thereafter for that  
165 offense until the child's twentieth birthday, unless sooner  
166 terminated by order of the youth court. The youth court shall not  
167 have jurisdiction over offenses committed by a child on or after  
168 his eighteenth birthday, or over offenses committed by a child on  
169 or after his seventeenth birthday where such offenses would be a  
170 felony if committed by an adult.

171           (3) No child who has not reached his thirteenth birthday  
172 shall be held criminally responsible or criminally prosecuted for  
173 a misdemeanor or felony; however, the parent, guardian or  
174 custodian of such child may be civilly liable for any criminal  
175 acts of such child. No child under the jurisdiction of the youth  
176 court shall be held criminally responsible or criminally  
177 prosecuted by any court for any act designated as a delinquent  
178 act, unless jurisdiction is transferred to another court under  
179 Section 43-21-157.

180           (4) The youth court shall also have jurisdiction of offenses  
181 committed by a child which have been transferred to the youth  
182 court by an order of a circuit court of this state having original  
183 jurisdiction of the offense, as provided by Section 43-21-159.

184           (5) The youth court shall regulate and approve the use of  
185 teen court as provided in Section 43-21-753.

186           **SECTION 7.** Section 47-5-191, Mississippi Code of 1972, is  
187 amended as follows:

188           47-5-191. As used in Sections 47-5-191 through 47-5-195,  
189 "alcoholic beverage" shall have the meaning defined in Section  
190 67-1-5 of the Local Option Alcoholic Beverage Control Law of the  
191 State of Mississippi; "controlled substance" means any substance  
192 defined as a controlled substance by the Uniform Controlled



193 Substances Law of the State of Mississippi; "narcotic drug" means  
194 any substance defined as a narcotic drug by Section 41-29-105;  
195 "weapon or deadly weapon" shall mean any weapon or firearm \* \* \*  
196 and any rifle or shotgun regardless of barrel length; and  
197 "contraband" means coin or currency, money orders, traveler's  
198 checks, promissory notes, credit cards, personal checks or other  
199 negotiable instruments, knives, sharpened instruments, tools,  
200 explosives, ammunition and drug paraphernalia as defined in  
201 Section 41-29-105(v).

202 **SECTION 8.** Section 97-37-3, Mississippi Code of 1972, is  
203 amended as follows:

204 97-37-3. Any weapon \* \* \* used in the commission of  
205 any \* \* \* crime, shall be seized by the arresting officer, may be  
206 introduced in evidence, and in the event of a conviction, shall be  
207 ordered to be forfeited, and shall be disposed of as ordered by  
208 the court having jurisdiction of such offense. In the event of  
209 dismissal or acquittal of charges, such weapon shall be returned  
210 to the accused from whom it was seized.

211 **SECTION 9.** Section 97-37-7, Mississippi Code of 1972, is  
212 amended as follows:

213 97-37-7. (1) (a) It shall not be a violation of \* \* \*  
214 any \* \* \* statute for pistols, firearms or other suitable and  
215 appropriate weapons to be carried by duly constituted bank guards,  
216 company guards, watchmen, railroad special agents or duly  
217 authorized representatives who are not sworn law enforcement  
218 officers, agents or employees of a patrol service, guard service,  
219 or a company engaged in the business of transporting money,  
220 securities or other valuables, while actually engaged in the  
221 performance of their duties as such, provided that such persons  
222 have made a written application and paid a nonrefundable permit  
223 fee of One Hundred Dollars (\$100.00) to the Department of Public  
224 Safety.



225 (b) No permit shall be issued to any person who has  
226 ever been convicted of a felony under the laws of this or any  
227 other state or of the United States. To determine an applicant's  
228 eligibility for a permit, the person shall be fingerprinted. If  
229 no disqualifying record is identified at the state level, the  
230 fingerprints shall be forwarded by the Department of Public Safety  
231 to the Federal Bureau of Investigation for a national criminal  
232 history record check. The department shall charge a fee which  
233 includes the amounts required by the Federal Bureau of  
234 Investigation and the department for the national and state  
235 criminal history record checks and any necessary costs incurred by  
236 the department for the handling and administration of the criminal  
237 history background checks. In the event a legible set of  
238 fingerprints, as determined by the Department of Public Safety and  
239 the Federal Bureau of Investigation, cannot be obtained after a  
240 minimum of three (3) attempts, the Department of Public Safety  
241 shall determine eligibility based upon a name check by the  
242 Mississippi Highway Safety Patrol and a Federal Bureau of  
243 Investigation name check conducted by the Mississippi Safety  
244 Patrol at the request of the Department of Public Safety.

245 (c) A person may obtain a duplicate of a lost or  
246 destroyed permit upon payment of a Fifteen Dollar (\$15.00)  
247 replacement fee to the Department of Public Safety, if he  
248 furnishes a notarized statement to the department that the permit  
249 has been lost or destroyed.

250 (d) (i) No less than ninety (90) days prior to the  
251 expiration date of a permit, the Department of Public Safety shall  
252 mail to the permit holder written notice of expiration together  
253 with the renewal form prescribed by the department. The permit  
254 holder shall renew the permit on or before the expiration date by  
255 filing with the department the renewal form, a notarized affidavit  
256 stating that the permit holder remains qualified, and the renewal  
257 fee of Fifty Dollars (\$50.00); provided, however, that honorably





258 retired law enforcement officers shall be exempt from payment of  
259 the renewal fee. A permit holder who fails to file a renewal  
260 application on or before its expiration date shall pay a late fee  
261 of Fifteen Dollars (\$15.00).

262 (ii) Renewal of the permit shall be required every  
263 four (4) years. The permit of a qualified renewal applicant shall  
264 be renewed upon receipt of the completed renewal application and  
265 appropriate payment of fees.

266 (iii) A permit cannot be renewed six (6) months or  
267 more after its expiration date, and such permit shall be deemed to  
268 be permanently expired; the holder may reapply for an original  
269 permit as provided in this section.

270 (2) It shall not be a violation of \* \* \* any \* \* \* statute  
271 for pistols, firearms or other suitable and appropriate weapons to  
272 be carried by Department of Wildlife, Fisheries and Parks law  
273 enforcement officers, railroad special agents who are sworn law  
274 enforcement officers, investigators employed by the Attorney  
275 General, district attorneys, legal assistants to district  
276 attorneys, criminal investigators employed by the district  
277 attorneys, investigators or probation officers employed by the  
278 Department of Corrections, employees of the State Auditor who are  
279 authorized by the State Auditor to perform investigative  
280 functions, or any deputy fire marshal or investigator employed by  
281 the State Fire Marshal, while engaged in the performance of their  
282 duties as such, or by fraud investigators with the Department of  
283 Human Services, or by judges of the Mississippi Supreme Court,  
284 Court of Appeals, circuit, chancery, county and municipal courts.  
285 Before any person shall be authorized under this subsection to  
286 carry a weapon, he shall complete a weapons training course  
287 approved by the Board of Law Enforcement Officer Standards and  
288 Training. Before any criminal investigator employed by a district  
289 attorney shall be authorized under this section to carry a pistol,  
290 firearm or other weapon, he shall have complied with Section



291 45-6-11 or any training program required for employment as an  
292 agent of the Federal Bureau of Investigation. A law enforcement  
293 officer, as defined in Section 45-6-3, shall be authorized to  
294 carry weapons in courthouses in performance of his official  
295 duties. This section shall in no way interfere with the right of  
296 a trial judge to restrict the carrying of firearms in the  
297 courtroom.

298 (3) It shall not be a violation of \* \* \* any \* \* \* statute  
299 for pistols, firearms or other suitable and appropriate weapons,  
300 to be carried by any out-of-state, full-time commissioned law  
301 enforcement officer who holds a valid commission card from the  
302 appropriate out-of-state law enforcement agency and a photo  
303 identification. The provisions of this subsection shall only  
304 apply if the state where the out-of-state officer is employed has  
305 entered into a reciprocity agreement with the state that allows  
306 full-time commissioned law enforcement officers in Mississippi to  
307 lawfully carry or possess a weapon in such other states. The  
308 Commissioner of Public Safety is authorized to enter into  
309 reciprocal agreements with other states to carry out the  
310 provisions of this subsection.

311 **SECTION 10.** Section 97-37-17, Mississippi Code of 1972, is  
312 amended as follows:

313 97-37-17. (1) The following definitions apply to this  
314 section:

315 (a) "Educational property" shall mean any public or  
316 private school building or bus, public or private school campus,  
317 grounds, recreational area, athletic field, or other property  
318 owned, used or operated by any local school board, school, college  
319 or university board of trustees, or directors for the  
320 administration of any public or private educational institution or  
321 during a school related activity; provided however, that the term  
322 "educational property" shall not include any sixteenth section



323 school land or lieu land on which is not located a school  
324 building, school campus, recreational area or athletic field.

325 (b) "Student" shall mean a person enrolled in a public  
326 or private school, college or university, or a person who has been  
327 suspended or expelled within the last five (5) years from a public  
328 or private school, college or university, whether the person is an  
329 adult or a minor.

330 (c) "Switchblade knife" shall mean a knife containing a  
331 blade or blades which open automatically by the release of a  
332 spring or a similar contrivance.

333 (d) "Weapon" shall mean any device enumerated in  
334 subsection (2) or (4) of this section.

335 (2) It shall be a felony for any person to possess or carry,  
336 whether openly or concealed, any gun, rifle, pistol or other  
337 firearm of any kind, or any dynamite cartridge, bomb, grenade,  
338 mine or powerful explosive on educational property. However, this  
339 subsection does not apply to a BB gun, air rifle or air pistol.  
340 Any person violating this subsection shall be guilty of a felony  
341 and, upon conviction thereof, shall be fined not more than Five  
342 Thousand Dollars (\$5,000.00), or committed to the custody of the  
343 State Department of Corrections for not more than three (3) years,  
344 or both.

345 (3) It shall be a felony for any person to cause, encourage  
346 or aid a minor who is less than eighteen (18) years old to possess  
347 or carry, whether openly or concealed, any gun, rifle, pistol or  
348 other firearm of any kind, or any dynamite cartridge, bomb,  
349 grenade, mine or powerful explosive on educational property.  
350 However, this subsection does not apply to a BB gun, air rifle or  
351 air pistol. Any person violating this subsection shall be guilty  
352 of a felony and, upon conviction thereof, shall be fined not more  
353 than Five Thousand Dollars (\$5,000.00), or committed to the  
354 custody of the State Department of Corrections for not more than  
355 three (3) years, or both.



356 (4) It shall be a misdemeanor for any person to possess or  
357 carry, whether openly or concealed, any BB gun, air rifle, air  
358 pistol, bowie knife, dirk, dagger, slingshot, leaded cane,  
359 switchblade knife, blackjack, metallic knuckles, razors and razor  
360 blades (except solely for personal shaving), and any sharp-pointed  
361 or edged instrument except instructional supplies, unaltered nail  
362 files and clips and tools used solely for preparation of food,  
363 instruction and maintenance on educational property. Any person  
364 violating this subsection shall be guilty of a misdemeanor and,  
365 upon conviction thereof, shall be fined not more than One Thousand  
366 Dollars (\$1,000.00), or be imprisoned not exceeding six (6)  
367 months, or both.

368 (5) It shall be a misdemeanor for any person to cause,  
369 encourage or aid a minor who is less than eighteen (18) years old  
370 to possess or carry, whether openly or concealed, any BB gun, air  
371 rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded  
372 cane, switchblade, knife, blackjack, metallic knuckles, razors and  
373 razor blades (except solely for personal shaving) and any  
374 sharp-pointed or edged instrument except instructional supplies,  
375 unaltered nail files and clips and tools used solely for  
376 preparation of food, instruction and maintenance on educational  
377 property. Any person violating this subsection shall be guilty of  
378 a misdemeanor and, upon conviction thereof, shall be fined not  
379 more than One Thousand Dollars (\$1,000.00), or be imprisoned not  
380 exceeding six (6) months, or both.

381 (6) It shall not be a violation of this section for any  
382 person to possess or carry, whether openly or concealed, any gun,  
383 rifle, pistol or other firearm of any kind on educational property  
384 if:

385 (a) The person is not a student attending school on any  
386 educational property;

387 (b) The firearm is within a motor vehicle; and



388           (c) The person does not brandish, exhibit or display  
389 the firearm in any careless, angry or threatening manner.

390           (7) This section shall not apply to:

391           (a) A weapon used solely for educational or  
392 school-sanctioned ceremonial purposes, or used in a  
393 school-approved program conducted under the supervision of an  
394 adult whose supervision has been approved by the school authority;

395           (b) Armed Forces personnel of the United States,  
396 officers and soldiers of the militia and National Guard, law  
397 enforcement personnel, any private police employed by an  
398 educational institution, State Militia or Emergency Management  
399 Corps and any guard or patrolman in a state or municipal  
400 institution, when acting in the discharge of their official  
401 duties;

402           (c) Home schools as defined in the compulsory school  
403 attendance law, Section 37-13-91;

404           (d) Competitors while participating in organized  
405 shooting events;

406           (e) Any person as authorized in Section 97-37-7 while  
407 in the performance of his official duties;

408           (f) Any mail carrier while in the performance of his  
409 official duties; or

410           (g) Any weapon \* \* \* which is in a motor vehicle under  
411 the control of a parent, guardian or custodian, as defined in  
412 Section 43-21-105, which is used to bring or pick up a student at  
413 a school building, school property or school function.

414           (8) All schools shall post in public view a copy of the  
415 provisions of this section.

416           **SECTION 11.** This act shall take effect and be in force from  
417 and after July 1, 2003.

