To: Judiciary B

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003

By: Representative Cummings

To: Judiciary B

HOUSE BILL NO. 1361

AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SHERIFFS TO ISSUE GUN PERMIT RENEWALS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

(b) Is twenty-one (21) years of age or older;
(c) Does not suffer from a physical infirmity which prevents the safe handling of a pistol or revolver;

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

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

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

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

(h) Has not been adjudicated mentally incompetent, or has waited five (5) years from the date of his restoration to capacity by court order;
(i) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of five (5) years;

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

(k) Is not a fugitive from justice.

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

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

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

(b) The driver’s license number or Social Security number of applicant;
(c) Any previous address of the applicant for the two
(2) years preceding the date of the application;
(d) A statement that the applicant is in compliance
with criteria contained within subsections (2) and (3) of this
section;
(e) A statement that the applicant has been furnished a
copy of this section and is knowledgeable of its provisions;
(f) A conspicuous warning that the application is
executed under oath and that a knowingly false answer to any
question, or the knowing submission of any false document by the
applicant, subjects the applicant to criminal prosecution; and
(g) A statement that the applicant desires a legal
means to carry a concealed pistol or revolver to defend himself.
(5) The applicant shall submit only the following to the
Department of Public Safety:
(a) A completed application as described in subsection
(4) of this section;
(b) A full-face photograph of the applicant;
(c) A nonrefundable license fee of One Hundred Dollars
($100.00). Costs for processing the set of fingerprints as
required in paragraph (c) of this subsection shall be borne by the
applicant. Honorary retired law enforcement officers shall be
exempt from the payment of the license fee;
(d) A full set of fingerprints of the applicant
administered by the Department of Public Safety; and
(e) A waiver authorizing the Department of Public
Safety access to any records concerning commitments of the
applicant to any of the treatment facilities or institutions
referred to in subsection (2) and permitting access to all the
applicant's criminal records.
(6) (a) The Department of Public Safety, upon receipt of
the items listed in subsection (5) of this section, shall forward
the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing.

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

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

(i) Issue the license; or

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

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of three (3) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name
check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

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

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

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available on-line, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983 for a
period of forty-five (45) days from the date of the issuance of
the license or the final denial of an application.

(9) Within thirty (30) days after the changing of a
permanent address, or within thirty (30) days after having a
license lost or destroyed, the licensee shall notify the
Department of Public Safety in writing of such change or loss.

Failure to notify the Department of Public Safety pursuant to the
provisions of this subsection shall constitute a noncriminal
violation with a penalty of Twenty-five Dollars ($25.00) and shall
be enforceable by a summons.

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

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

(12) (a) No less than ninety (90) days prior to the
expiration date of the license, the Department of Public Safety
shall mail to each licensee a written notice of the expiration and
a renewal form prescribed by the department. The licensee must
renew his license on or before the expiration date by filing with
the department the renewal form, a notarized affidavit stating
that the licensee remains qualified pursuant to the criteria
specified in subsections (2) and (3) of this section, and a
renewal fee of Fifty Dollars ($50.00); provided, however, that
honorably retired law enforcement officers shall be exempt from
this renewal fee. The license shall be renewed upon receipt of the
completed renewal application and appropriate payment of fees.
Additionally, a licensee who fails to file a renewal application
on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars ($15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(b) Renewals may be issued by the sheriff of each county. The Department of Public Safety shall provide applications for such renewals. The Department of Public Safety shall promulgate any necessary rules and regulations consistent with this section in order to carry out the provisions of this paragraph.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any public park unless for the purpose of participating in any authorized firearms-related activity; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary
school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship; or any place where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a concealed pistol or revolver.

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

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

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

(17) All funds received by a sheriff or police chief
pursuant to the provisions of this section shall be deposited into
the general fund of the county or municipality, as appropriate,
and shall be budgeted to the sheriff's office or police department
as appropriate.

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

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

SECTION 2. This act shall take effect and be in force from
and after July 1, 2003.