

By: Representatives McBride, Akins, Aldridge, Arinder, Bailey, Baker (74th), Baker (8th), Barnett, Beckett, Bentz, Bondurant, Bounds, Carlton, Chism, Clark, Cummings, Davis, Dedeaux, Denny, Eaton, Ellington, Fillingane, Franks, Frierson, Gadd, Guice, Gunn, Hamilton (109th), Hamilton (6th), Horne, Howell, Hudson, Ishee, Janus, Jennings, Lott, Malone, Markham, Masterson, Mayhall, Moak, Montgomery, Moody, Moore, Moss, Nicholson, Parker, Patterson, Pierce, Read, Reed, Reeves, Reynolds, Robinson (84th), Rogers (14th), Rogers (61st), Rotenberry, Shows, Simpson, Smith (39th), Snowden, Staples, Stevens, Straughter, Stringer, Sullivan, Taylor, Turner, Upshaw, Vince, Ward, Warren, Wells-Smith, Woods, Zuber, Mims, Martinson

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 989

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,  
2 TO REVISE RECIPROCITY FOR WEAPONS PERMITS; AND FOR RELATED  
3 PURPOSES.

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

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

7 45-9-101. (1) (a) The Department of Public Safety is  
8 authorized to issue licenses to carry concealed pistols or  
9 revolvers to persons qualified as provided in this section. Such  
10 licenses shall be valid throughout the state for a period of four  
11 (4) years from the date of issuance. Any person possessing a  
12 valid license issued pursuant to this section may carry a  
13 concealed pistol or concealed revolver.

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

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

23 (a) Is a resident of the state and has been a resident  
24 for twelve (12) months or longer immediately preceding the filing  
25 of the application. However, this residency requirement may be  
26 waived, provided the applicant possesses a valid permit from

27 another state, is active military personnel stationed in  
28 Mississippi or is a retired law enforcement officer establishing  
29 residency in the state.

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

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

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

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

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

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

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

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

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

73           (k) Is not a fugitive from justice; and

74           (l) Is not disqualified to possess or own a weapon  
75 based on federal law.

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

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

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

97           (b) The driver's license number or Social Security  
98 number of applicant;

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

101           (d) A statement that the applicant is in compliance  
102 with criteria contained within subsections (2) and (3) of this  
103 section;

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

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

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

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

114           (a) A completed application as described in subsection  
115 (4) of this section;

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

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

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

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

129           (6) (a) The Department of Public Safety, upon receipt of  
130 the items listed in subsection (5) of this section, shall forward  
131 the full set of fingerprints of the applicant to the appropriate  
132 agencies for state and federal processing.

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

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

150                   (i) Issue the license; or

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

156 and the denial shall be subject to the appeal process set forth in  
157 subsection (7).

158 (d) In the event a legible set of fingerprints, as  
159 determined by the Department of Public Safety and the Federal  
160 Bureau of Investigation, cannot be obtained after a minimum of two  
161 (2) attempts, the Department of Public Safety shall determine  
162 eligibility based upon a name check by the Mississippi Highway  
163 Safety Patrol and a Federal Bureau of Investigation name check  
164 conducted by the Mississippi Highway Safety Patrol at the request  
165 of the Department of Public Safety.

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

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

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

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

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

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

217           (12) No less than ninety (90) days prior to the expiration  
218 date of the license, the Department of Public Safety shall mail to  
219 each licensee a written notice of the expiration and a renewal  
220 form prescribed by the department. The licensee must renew his  
221 license on or before the expiration date by filing with the

222 department the renewal form, a notarized affidavit stating that  
223 the licensee remains qualified pursuant to the criteria specified  
224 in subsections (2) and (3) of this section, and a full set of  
225 fingerprints administered by the Department of Public Safety. A  
226 renewal fee of Fifty Dollars (\$50.00) shall also be submitted  
227 along with costs for processing the fingerprints; provided,  
228 however, that honorably retired law enforcement officers shall be  
229 exempt from this renewal fee. The Department of Public Safety  
230 shall forward the full set of fingerprints of the applicant to the  
231 appropriate agencies for state and federal processing. The  
232 license shall be renewed upon receipt of the completed renewal  
233 application and appropriate payment of fees. Additionally, a  
234 licensee who fails to file a renewal application on or before its  
235 expiration date must renew his license by paying a late fee of  
236 Fifteen Dollars (\$15.00). No license shall be renewed six (6)  
237 months or more after its expiration date, and such license shall  
238 be deemed to be permanently expired. A person whose license has  
239 been permanently expired may reapply for licensure; however, an  
240 application for licensure and fees pursuant to subsection (5) of  
241 this section must be submitted, and a background investigation  
242 shall be conducted pursuant to the provisions of this section.

243 (13) No license issued pursuant to this section shall  
244 authorize any person to carry a concealed pistol or revolver into  
245 any place of nuisance as defined in Section 95-3-1, Mississippi  
246 Code of 1972; any police, sheriff or highway patrol station; any  
247 detention facility, prison or jail; any courthouse; any courtroom,  
248 except that nothing in this section shall preclude a judge from  
249 carrying a concealed weapon or determining who will carry a  
250 concealed weapon in his courtroom; any polling place; any meeting  
251 place of the governing body of any governmental entity; any  
252 meeting of the Legislature or a committee thereof; any public park  
253 unless for the purpose of participating in any authorized  
254 firearms-related activity; any school, college or professional



255 athletic event not related to firearms; any portion of an  
256 establishment, licensed to dispense alcoholic beverages for  
257 consumption on the premises, that is primarily devoted to  
258 dispensing alcoholic beverages; any portion of an establishment in  
259 which beer or light wine is consumed on the premises, that is  
260 primarily devoted to such purpose; any elementary or secondary  
261 school facility; any junior college, community college, college or  
262 university facility unless for the purpose of participating in any  
263 authorized firearms-related activity; inside the passenger  
264 terminal of any airport, except that no person shall be prohibited  
265 from carrying any legal firearm into the terminal if the firearm  
266 is encased for shipment, for purposes of checking such firearm as  
267 baggage to be lawfully transported on any aircraft; any church or  
268 other place of worship; or any place where the carrying of  
269 firearms is prohibited by federal law. In addition to the places  
270 enumerated in this subsection, the carrying of a concealed pistol  
271 or revolver may be disallowed in any place in the discretion of  
272 the person or entity exercising control over the physical location  
273 of such place by the placing of a written notice clearly readable  
274 at a distance of not less than ten (10) feet that the "carrying of  
275 a pistol or revolver is prohibited." No license issued pursuant  
276 to this section shall authorize the participants in a parade or  
277 demonstration for which a permit is required to carry a concealed  
278 pistol or revolver.

279 (14) A law enforcement officer as defined in Section 45-6-3,  
280 chiefs of police, sheriffs and persons licensed as professional  
281 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of  
282 1972, shall be exempt from the licensing requirements of this  
283 section.

284 (15) Any person who knowingly submits a false answer to any  
285 question on an application for a license issued pursuant to this  
286 section, or who knowingly submits a false document when applying  
287 for a license issued pursuant to this section, shall, upon

288 conviction, be guilty of a misdemeanor and shall be punished as  
289 provided in Section 99-19-31, Mississippi Code of 1972.

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

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

302 (18) Nothing in this section shall be construed to require  
303 or allow the registration, documentation or providing of serial  
304 numbers with regard to any firearm. Further, nothing in this  
305 section shall be construed to allow the open and unconcealed  
306 carrying of any deadly weapon as described in Section 97-37-1,  
307 Mississippi Code of 1972.

308 (19) Any person holding a valid unrevoked and unexpired  
309 license to carry concealed pistols or revolvers issued in another  
310 state \* \* \* shall have such license recognized by this state to  
311 carry concealed pistols or revolvers, provided that the issuing  
312 state authorizes license holders from this state to carry  
313 concealed pistols or revolvers in such issuing state and the  
314 appropriate authority has communicated that fact to the Department  
315 of Public Safety.

316 (20) The provisions of this section shall be under the  
317 supervision of the Commissioner of Public Safety. The  
318 commissioner is authorized to promulgate reasonable rules and  
319 regulations to carry out the provisions of this section.

320           **SECTION 2.** This act shall take effect and be in force from  
321 and after July 1, 2004.