

By: Representatives Moore, Chism

To: Judiciary B

HOUSE BILL NO. 1155

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12 provides for licenses to carry concealed weapons, is repealed.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14 prohibits carrying concealed weapons, is repealed.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17 97-37-1, is repealed.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 45-9-101, the special
46 fund created pursuant to Section 69-37-39, the special fund
47 created pursuant to Section 1 of Chapter 521, Laws of 1999, the
48 special fund created pursuant to Section 31-17-127 or the special
49 fund created pursuant to Section 65-1-110.

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

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

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

64 notify the appropriate law enforcement officials as required by
65 this section. In the event of an emergency or if the
66 superintendent or his designee is unavailable, any principal may
67 make a report required under this subsection.

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

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

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

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

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

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

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

123 (a) Possession or use of a deadly weapon * * *;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

205 97-37-3. (1) Any weapon * * * used in the commission of
206 any * * * crime, shall be seized by the arresting officer, may be
207 introduced in evidence, and in the event of a conviction, shall be
208 ordered to be forfeited, and shall be disposed of as ordered by
209 the court having jurisdiction of such offense. In the event of
210 dismissal or acquittal of charges, such weapon shall be returned
211 to the accused from whom it was seized.

212 (2) (a) If the weapon to be forfeited is merchantable, the
213 court may order the weapon forfeited to the seizing law
214 enforcement agency.

215 (b) A weapon so forfeited to a law enforcement agency
216 may be sold at auction as provided by Sections 19-3-85 and
217 21-39-21 to a federally-licensed firearms dealer, with the
218 proceeds from such sale at auction to be used to buy bulletproof
219 vests for the seizing law enforcement agency.

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

222 97-37-7. (1) (a) It shall not be a violation of * * *
223 any * * * statute for pistols, firearms or other suitable and
224 appropriate weapons to be carried by duly constituted bank guards,
225 company guards, watchmen, railroad special agents or duly
226 authorized representatives who are not sworn law enforcement

227 officers, agents or employees of a patrol service, guard service,
228 or a company engaged in the business of transporting money,
229 securities or other valuables, while actually engaged in the
230 performance of their duties as such, provided that such persons
231 have made a written application and paid a nonrefundable permit
232 fee of One Hundred Dollars (\$100.00) to the Department of Public
233 Safety.

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

254 (c) A person may obtain a duplicate of a lost or
255 destroyed permit upon payment of a Fifteen Dollar (\$15.00)
256 replacement fee to the Department of Public Safety, if he
257 furnishes a notarized statement to the department that the permit
258 has been lost or destroyed.

259 (d) (i) No less than ninety (90) days prior to the
260 expiration date of a permit, the Department of Public Safety shall
261 mail to the permit holder written notice of expiration together
262 with the renewal form prescribed by the department. The permit
263 holder shall renew the permit on or before the expiration date by
264 filing with the department the renewal form, a notarized affidavit
265 stating that the permit holder remains qualified, and the renewal
266 fee of Fifty Dollars (\$50.00); provided, however, that honorably
267 retired law enforcement officers shall be exempt from payment of
268 the renewal fee. A permit holder who fails to file a renewal
269 application on or before its expiration date shall pay a late fee
270 of Fifteen Dollars (\$15.00).

271 (ii) Renewal of the permit shall be required every
272 four (4) years. The permit of a qualified renewal applicant shall
273 be renewed upon receipt of the completed renewal application and
274 appropriate payment of fees.

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

279 (2) It shall not be a violation of * * * any * * * statute
280 for pistols, firearms or other suitable and appropriate weapons to
281 be carried by Department of Wildlife, Fisheries and Parks law
282 enforcement officers, railroad special agents who are sworn law
283 enforcement officers, investigators employed by the Attorney
284 General, district attorneys, legal assistants to district
285 attorneys, criminal investigators employed by the district
286 attorneys, investigators or probation officers employed by the
287 Department of Corrections, employees of the State Auditor who are
288 authorized by the State Auditor to perform investigative
289 functions, or any deputy fire marshal or investigator employed by
290 the State Fire Marshal, while engaged in the performance of their
291 duties as such, or by fraud investigators with the Department of

292 Human Services, or by judges of the Mississippi Supreme Court,
293 Court of Appeals, circuit, chancery, county and municipal courts.
294 Before any person shall be authorized under this subsection to
295 carry a weapon, he shall complete a weapons training course
296 approved by the Board of Law Enforcement Officer Standards and
297 Training. Before any criminal investigator employed by a district
298 attorney shall be authorized under this section to carry a pistol,
299 firearm or other weapon, he shall have complied with Section
300 45-6-11 or any training program required for employment as an
301 agent of the Federal Bureau of Investigation. A law enforcement
302 officer, as defined in Section 45-6-3, shall be authorized to
303 carry weapons in courthouses in performance of his official
304 duties. This section shall in no way interfere with the right of
305 a trial judge to restrict the carrying of firearms in the
306 courtroom.

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

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

322 97-37-17. (1) The following definitions apply to this
323 section:

324 (a) "Educational property" shall mean any public or
325 private school building or bus, public or private school campus,
326 grounds, recreational area, athletic field, or other property
327 owned, used or operated by any local school board, school, college
328 or university board of trustees, or directors for the
329 administration of any public or private educational institution or
330 during a school related activity; provided however, that the term
331 "educational property" shall not include any sixteenth section
332 school land or lieu land on which is not located a school
333 building, school campus, recreational area or athletic field.

334 (b) "Student" shall mean a person enrolled in a public
335 or private school, college or university, or a person who has been
336 suspended or expelled within the last five (5) years from a public
337 or private school, college or university, whether the person is an
338 adult or a minor.

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

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

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

354 (3) It shall be a felony for any person to cause, encourage
355 or aid a minor who is less than eighteen (18) years old to possess
356 or carry, whether openly or concealed, any gun, rifle, pistol or

357 other firearm of any kind, or any dynamite cartridge, bomb,
358 grenade, mine or powerful explosive on educational property.
359 However, this subsection does not apply to a BB gun, air rifle or
360 air pistol. Any person violating this subsection shall be guilty
361 of a felony and, upon conviction thereof, shall be fined not more
362 than Five Thousand Dollars (\$5,000.00), or committed to the
363 custody of the State Department of Corrections for not more than
364 three (3) years, or both.

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

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

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

394 (a) The person is not a student attending school on any
395 educational property;

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

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

399 (7) This section shall not apply to:

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

404 (b) Armed Forces personnel of the United States,
405 officers and soldiers of the militia and National Guard, law
406 enforcement personnel, any private police employed by an
407 educational institution, State Militia or Emergency Management
408 Corps and any guard or patrolman in a state or municipal
409 institution, when acting in the discharge of their official
410 duties;

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

413 (d) Competitors while participating in organized
414 shooting events;

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

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

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

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

425 **SECTION 11.** This act shall take effect and be in force from
426 and after July 1, 2004.