

By: Representative Bondurant

To: Judiciary B;
Appropriations

HOUSE BILL NO. 308

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE A REVISED FEE FOR A LICENSE TO CARRY A CONCEALED WEAPON
3 FOR CERTAIN RESERVE LAW ENFORCEMENT OFFICERS; AND FOR RELATED
4 PURPOSES.

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

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

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

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

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

24 (a) Is a resident of the state and has been a resident
25 for twelve (12) months or longer immediately preceding the filing
26 of the application. However, this residency requirement may be
27 waived, provided the applicant possesses a valid permit from
28 another state, is active military personnel stationed in

29 Mississippi or is a retired law enforcement officer establishing
30 residency in the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 (c) A nonrefundable license fee of One Hundred Dollars
119 (\$100.00). Costs for processing the set of fingerprints as
120 required in paragraph (c) of this subsection shall be borne by the
121 applicant. Honorably retired law enforcement officers shall be
122 exempt from the payment of the license fee. A reserve police
123 officer or a reserve deputy sheriff shall pay a fee of Twenty-five
124 Dollars (\$25.00), provided that such reserve officer or deputy

125 sheriff has been a reserve officer or deputy sheriff for at least
126 one (1) year and such status is verified by a supervisor;

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

129 (e) A waiver authorizing the Department of Public
130 Safety access to any records concerning commitments of the
131 applicant to any of the treatment facilities or institutions
132 referred to in subsection (2) and permitting access to all the
133 applicant's criminal records.

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

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

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

155 (i) Issue the license; or

156 (ii) Deny the application based solely on the
157 ground that the applicant fails to qualify under the criteria

158 listed in subsections (2) and (3) of this section. If the
159 Department of Public Safety denies the application, it shall
160 notify the applicant in writing, stating the ground for denial,
161 and the denial shall be subject to the appeal process set forth in
162 subsection (7).

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

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

183 (b) If the revocation, suspension or denial of issuance
184 is sustained by the Commissioner of Public Safety, or his duly
185 authorized agent pursuant to paragraph (a) of this subsection, the
186 aggrieved party may file within ten (10) days after the rendition
187 of such decision a petition in the circuit or county court of his
188 residence for review of such decision. A hearing for review shall
189 be held and shall proceed before the court without a jury upon the
190 record made at the hearing before the Commissioner of Public

191 Safety or his duly authorized agent. No such party shall be
192 allowed to carry a concealed pistol or revolver pursuant to the
193 provisions of this section while any such appeal is pending.

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

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

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

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

222 (12) No less than ninety (90) days prior to the expiration
223 date of the license, the Department of Public Safety shall mail to

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

248 (13) No license issued pursuant to this section shall
249 authorize any person to carry a concealed pistol or revolver into
250 any place of nuisance as defined in Section 95-3-1, Mississippi
251 Code of 1972; any police, sheriff or highway patrol station; any
252 detention facility, prison or jail; any courthouse; any courtroom,
253 except that nothing in this section shall preclude a judge from
254 carrying a concealed weapon or determining who will carry a
255 concealed weapon in his courtroom; any polling place; any meeting
256 place of the governing body of any governmental entity; any

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

284 (14) A law enforcement officer as defined in Section 45-6-3,
285 chiefs of police, sheriffs and persons licensed as professional
286 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
287 1972, shall be exempt from the licensing requirements of this
288 section.

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

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

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

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

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

321 (20) The provisions of this section shall be under the
322 supervision of the Commissioner of Public Safety. The
323 commissioner is authorized to promulgate reasonable rules and
324 regulations to carry out the provisions of this section.

325 **SECTION 2.** This act shall take effect and be in force from
326 and after July 1, 2005.