

By: Representative Ward

To: Judiciary B

HOUSE BILL NO. 706

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT GUN PERMITS FOR RETIRED LAW ENFORCEMENT OFFICERS
3 SHALL DESIGNATE THE LICENSEE AS A RETIRED LAW ENFORCEMENT OFFICER;
4 AND FOR RELATED 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;

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

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

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

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

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

151 (i) Issue the license; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

317 (20) A license issued to a retired law enforcement officer
318 shall have a designation on the license identifying the licensee
319 as a retired law enforcement officer.

320 (21) The provisions of this section shall be under the
321 supervision of the Commissioner of Public Safety. The

322 commissioner is authorized to promulgate reasonable rules and
323 regulations to carry out the provisions of this section.

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