

By: Representative Hamilton (6th)

To: Judiciary B

HOUSE BILL NO. 1146

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT RECORDS RELATING TO GUN PERMITS ARE CONFIDENTIAL
3 AND EXEMPT FROM THE PUBLIC RECORDS ACT; AND FOR RELATED 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. * * * The records of the department relating to
194 applications for licenses to carry concealed pistols or revolvers
195 and records relating to license holders are confidential and shall
196 be exempt from the provisions of the Mississippi Public Records
197 Act of 1983 * * *.

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

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

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

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

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

242 (13) No license issued pursuant to this section shall
243 authorize any person to carry a concealed pistol or revolver into
244 any place of nuisance as defined in Section 95-3-1, Mississippi
245 Code of 1972; any police, sheriff or highway patrol station; any
246 detention facility, prison or jail; any courthouse; any courtroom,
247 except that nothing in this section shall preclude a judge from
248 carrying a concealed weapon or determining who will carry a
249 concealed weapon in his courtroom; any polling place; any meeting
250 place of the governing body of any governmental entity; any
251 meeting of the Legislature or a committee thereof; any public park
252 unless for the purpose of participating in any authorized
253 firearms-related activity; any school, college or professional
254 athletic event not related to firearms; any portion of an

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

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

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

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

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

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

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

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

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

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