

By: Senator(s) Davis, Doxey

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2772

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A PERMIT TO CARRY A STUN GUN; AND FOR RELATED PURPOSES.

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

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

6 45-9-101. (1) (a) The Department of Public Safety is
7 authorized to issue licenses to carry stun guns, concealed pistols
8 or revolvers to persons qualified as provided in this section.
9 Such licenses shall be valid throughout the state for a period of
10 four (4) years from the date of issuance. Any person possessing a
11 valid license issued pursuant to this section may carry a stun
12 gun, concealed pistol or concealed revolver.

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

189 to the provisions of this section while any such appeal is
190 pending.

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

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

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

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

219 (12) No less than ninety (90) days prior to the expiration
220 date of the license, the Department of Public Safety shall mail to
221 each licensee a written notice of the expiration and a renewal

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

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

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

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

286 (15) Any person who knowingly submits a false answer to any
287 question on an application for a license issued pursuant to this

288 section, or who knowingly submits a false document when applying
289 for a license issued pursuant to this section, shall, upon
290 conviction, be guilty of a misdemeanor and shall be punished as
291 provided in Section 99-19-31, Mississippi Code of 1972.

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

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

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

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

318 (20) The provisions of this section shall be under the
319 supervision of the Commissioner of Public Safety. The

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

322 (21) For the purposes of this section, the term "stun gun"
323 means a portable device or weapon from which an electric current,
324 impulse, wave or beam may be directed, which current, impulse,
325 wave or beam is designed to incapacitate temporarily, injure,
326 kill, momentarily stun, knock out, cause mental disorientation or
327 paralyze.

328 **SECTION 2.** This act shall take effect and be in force from
329 and after July 1, 2007.