

By: Senator(s) Davis, Doxey

To: Judiciary, Division B

SENATE BILL NO. 2772  
(As Sent to Governor)

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 stun gun, 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 stun gun 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 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.