

By: Representatives Formby, Moore

To: Judiciary B

HOUSE BILL NO. 1082

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO ALLOW LICENSED PERSONS TO POSSESS CONCEALED WEAPONS IN PLACES
3 OF WORSHIP; 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 stun guns, concealed pistols
9 or revolvers to persons qualified as provided in this section.
10 Such licenses shall be valid throughout the state for a period of
11 four (4) years from the date of issuance. Any person possessing a
12 valid license issued pursuant to this section may carry a stun
13 gun, 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 stun gun, concealed pistol or revolver and must display
17 both the license and proper identification upon demand by a law
18 enforcement officer. A violation of the provisions of this
19 paragraph (b) shall constitute a noncriminal violation with a
20 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
21 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 stun gun, 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 stun gun,
61 concealed pistol 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 stun gun, concealed pistol or revolver to defend
113 himself.

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

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

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

119 (c) A nonrefundable license fee of One Hundred Dollars
120 (\$100.00). Costs for processing the set of fingerprints as
121 required in paragraph (c) of this subsection shall be borne by the
122 applicant. Honorably retired law enforcement officers shall be
123 exempt from the payment of the license fee;

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



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

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

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

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

152 (i) Issue the license; or

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



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

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

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

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



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

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

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

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

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

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



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

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



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

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

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



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

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

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

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

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

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



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

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

329 **SECTION 2.** This act shall take effect and be in force from
330 and after July 1, 2008.

