

By: Representatives Bailey, McBride

To: Judiciary B

HOUSE BILL NO. 311
(As Passed the House)

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE RENEWAL OF GUN PERMITS BY MAIL WITH THE CONDITION
3 THAT ALTERNATING RENEWALS BE MADE BY PERSONAL APPEARANCE IN ORDER
4 TO OBTAIN NEW PHOTOGRAPHS EVERY TEN YEARS; TO REVISE THE TIME FOR
5 RESPONDING TO APPLICATIONS; AND FOR RELATED PURPOSES.

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

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

9 45-9-101. (1) (a) The Department of Public Safety is
10 authorized to issue licenses to carry stun guns, concealed pistols
11 or revolvers to persons qualified as provided in this section.
12 Such licenses shall be valid throughout the state for a period of
13 five (5) years from the date of issuance. Any person possessing a
14 valid license issued pursuant to this section may carry a stun
15 gun, concealed pistol or concealed revolver.

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

24 (2) The Department of Public Safety shall issue a license if
25 the applicant:

26 (a) Is a resident of the state and has been a resident
27 for twelve (12) months or longer immediately preceding the filing
28 of the application. However, this residency requirement may be



29 waived, provided the applicant possesses a valid permit from
30 another state, is active military personnel stationed in
31 Mississippi or is a retired law enforcement officer establishing
32 residency in the state;

33 (b) Is twenty-one (21) years of age or older;

34 (c) Does not suffer from a physical infirmity which
35 prevents the safe handling of a stun gun, pistol or revolver;

36 (d) Is not ineligible to possess a firearm by virtue of
37 having been convicted of a felony in a court of this state, of any
38 other state, or of the United States without having been pardoned
39 for same;

40 (e) Does not chronically or habitually abuse controlled
41 substances to the extent that his normal faculties are impaired.
42 It shall be presumed that an applicant chronically and habitually
43 uses controlled substances to the extent that his faculties are
44 impaired if the applicant has been voluntarily or involuntarily
45 committed to a treatment facility for the abuse of a controlled
46 substance or been found guilty of a crime under the provisions of
47 the Uniform Controlled Substances Law or similar laws of any other
48 state or the United States relating to controlled substances
49 within a three-year period immediately preceding the date on which
50 the application is submitted;

51 (f) Does not chronically and habitually use alcoholic
52 beverages to the extent that his normal faculties are impaired.
53 It shall be presumed that an applicant chronically and habitually
54 uses alcoholic beverages to the extent that his normal faculties
55 are impaired if the applicant has been voluntarily or
56 involuntarily committed as an alcoholic to a treatment facility or
57 has been convicted of two (2) or more offenses related to the use
58 of alcohol under the laws of this state or similar laws of any
59 other state or the United States within the three-year period
60 immediately preceding the date on which the application is
61 submitted;



62 (g) Desires a legal means to carry a stun gun,
63 concealed pistol or revolver to defend himself;

64 (h) Has not been adjudicated mentally incompetent, or
65 has waited five (5) years from the date of his restoration to
66 capacity by court order;

67 (i) Has not been voluntarily or involuntarily committed
68 to a mental institution or mental health treatment facility unless
69 he possesses a certificate from a psychiatrist licensed in this
70 state that he has not suffered from disability for a period of
71 five (5) years;

72 (j) Has not had adjudication of guilt withheld or
73 imposition of sentence suspended on any felony unless three (3)
74 years have elapsed since probation or any other conditions set by
75 the court have been fulfilled;

76 (k) Is not a fugitive from justice; and

77 (l) Is not disqualified to possess or own a weapon
78 based on federal law.

79 (3) The Department of Public Safety may deny a license if
80 the applicant has been found guilty of one or more crimes of
81 violence constituting a misdemeanor unless three (3) years have
82 elapsed since probation or any other conditions set by the court
83 have been fulfilled or expunction has occurred prior to the date
84 on which the application is submitted, or may revoke a license if
85 the licensee has been found guilty of one or more crimes of
86 violence within the preceding three (3) years. The department
87 shall, upon notification by a law enforcement agency or a court
88 and subsequent written verification, suspend a license or the
89 processing of an application for a license if the licensee or
90 applicant is arrested or formally charged with a crime which would
91 disqualify such person from having a license under this section,
92 until final disposition of the case. The provisions of subsection
93 (7) of this section shall apply to any suspension or revocation of
94 a license pursuant to the provisions of this section.



95 (4) The application shall be completed, under oath, on a
96 form promulgated by the Department of Public Safety and shall
97 include only:

98 (a) The name, address, place and date of birth, race,
99 sex and occupation of the applicant;

100 (b) The driver's license number or social security
101 number of applicant;

102 (c) Any previous address of the applicant for the two
103 (2) years preceding the date of the application;

104 (d) A statement that the applicant is in compliance
105 with criteria contained within subsections (2) and (3) of this
106 section;

107 (e) A statement that the applicant has been furnished a
108 copy of this section and is knowledgeable of its provisions;

109 (f) A conspicuous warning that the application is
110 executed under oath and that a knowingly false answer to any
111 question, or the knowing submission of any false document by the
112 applicant, subjects the applicant to criminal prosecution; and

113 (g) A statement that the applicant desires a legal
114 means to carry a stun gun, concealed pistol or revolver to defend
115 himself.

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

118 (a) A completed application as described in subsection
119 (4) of this section;

120 (b) A full-face photograph of the applicant taken
121 within the preceding thirty (30) days in which the head, including
122 hair, in a size as determined by the Department of Public Safety;

123 (c) A nonrefundable license fee of One Hundred Dollars
124 (\$100.00). Costs for processing the set of fingerprints as
125 required in paragraph (c) of this subsection shall be borne by the
126 applicant. Honorably retired law enforcement officers shall be
127 exempt from the payment of the license fee;



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

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

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

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

153 (c) The Department of Public Safety shall, within
154 forty-five (45) days after the date of receipt of the items listed
155 in subsection (5) of this section:

156 (i) Issue the license; * * *

157 (ii) Deny the application based solely on the
158 ground that the applicant fails to qualify under the criteria
159 listed in subsections (2) and (3) of this section. If the
160 Department of Public Safety denies the application, it shall



161 notify the applicant in writing, stating the ground for denial,
162 and the denial shall be subject to the appeal process set forth in
163 subsection (7); or

164 (iii) Notify the applicant that the department is
165 unable to make a determination regarding the issuance or denial of
166 a license within the forty-five-day period prescribed by this
167 subsection, and provide an estimate of the amount of time the
168 department will need to make the determination.

169 (d) In the event a legible set of fingerprints, as
170 determined by the Department of Public Safety and the Federal
171 Bureau of Investigation, cannot be obtained after a minimum of two
172 (2) attempts, the Department of Public Safety shall determine
173 eligibility based upon a name check by the Mississippi Highway
174 Safety Patrol and a Federal Bureau of Investigation name check
175 conducted by the Mississippi Highway Safety Patrol at the request
176 of the Department of Public Safety.

177 (7) (a) If the Department of Public Safety denies the
178 issuance of a license, or suspends or revokes a license, the party
179 aggrieved may appeal such denial, suspension or revocation to the
180 Commissioner of Public Safety, or his authorized agent, within
181 thirty (30) days after the aggrieved party receives written notice
182 of such denial, suspension or revocation. The Commissioner of
183 Public Safety, or his duly authorized agent, shall rule upon such
184 appeal within thirty (30) days after the appeal is filed and
185 failure to rule within this thirty-day period shall constitute
186 sustaining such denial, suspension or revocation. Such review
187 shall be conducted pursuant to such reasonable rules and
188 regulations as the Commissioner of Public Safety may adopt.

189 (b) If the revocation, suspension or denial of issuance
190 is sustained by the Commissioner of Public Safety, or his duly
191 authorized agent pursuant to paragraph (a) of this subsection, the
192 aggrieved party may file within ten (10) days after the rendition
193 of such decision a petition in the circuit or county court of his



194 residence for review of such decision. A hearing for review shall
195 be held and shall proceed before the court without a jury upon the
196 record made at the hearing before the Commissioner of Public
197 Safety or his duly authorized agent. No such party shall be
198 allowed to carry a stun gun, concealed pistol or revolver pursuant
199 to the provisions of this section while any such appeal is
200 pending.

201 (8) The Department of Public Safety shall maintain an
202 automated listing of license holders and such information shall be
203 available online, upon request, at all times, to all law
204 enforcement agencies through the Mississippi Crime Information
205 Center. However, the records of the department relating to
206 applications for licenses to carry stun guns, concealed pistols or
207 revolvers and records relating to license holders shall be exempt
208 from the provisions of the Mississippi Public Records Act of 1983
209 for a period of forty-five (45) days from the date of the issuance
210 of the license or the final denial of an application.

211 (9) Within thirty (30) days after the changing of a
212 permanent address, or within thirty (30) days after having a
213 license lost or destroyed, the licensee shall notify the
214 Department of Public Safety in writing of such change or loss.
215 Failure to notify the Department of Public Safety pursuant to the
216 provisions of this subsection shall constitute a noncriminal
217 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
218 be enforceable by a summons.

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



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

229 (12) (a) No less than ninety (90) days prior to the
230 expiration date of the license, the Department of Public Safety
231 shall mail to each licensee a written notice of the expiration and
232 a renewal form prescribed by the department. The licensee must
233 renew his license on or before the expiration date by filing with
234 the department the renewal form, a notarized affidavit stating
235 that the licensee remains qualified pursuant to the criteria
236 specified in subsections (2) and (3) of this section, and a full
237 set of fingerprints administered by the Department of Public
238 Safety or the sheriff of the county of residence of the licensee.
239 The first renewal may be processed by mail and the subsequent
240 renewal must be made in person. Thereafter every other renewal
241 may be processed by mail to assure that the applicant must appear
242 in person every ten (10) years for the purpose of obtaining a new
243 photograph.

244 (i) Except as provided in this subsection, a
245 renewal fee of Fifty Dollars (\$50.00) shall also be submitted
246 along with costs for processing the fingerprints;

247 (ii) Honorably retired law enforcement officers
248 shall be exempt from the renewal fee; and

249 (iii) The renewal fee for a Mississippi resident
250 aged sixty-five (65) years of age or older shall be Twenty-five
251 Dollars (\$25.00).

252 (b) The Department of Public Safety shall forward the
253 full set of fingerprints of the applicant to the appropriate
254 agencies for state and federal processing. The license shall be
255 renewed upon receipt of the completed renewal application and
256 appropriate payment of fees.

257 (c) A licensee who fails to file a renewal application
258 on or before its expiration date must renew his license by paying



259 a late fee of Fifteen Dollars (\$15.00). No license shall be
260 renewed six (6) months or more after its expiration date, and such
261 license shall be deemed to be permanently expired. A person whose
262 license has been permanently expired may reapply for licensure;
263 however, an application for licensure and fees pursuant to
264 subsection (5) of this section must be submitted, and a background
265 investigation shall be conducted pursuant to the provisions of
266 this section.

267 (13) No license issued pursuant to this section shall
268 authorize any person to carry a stun gun, concealed pistol or
269 revolver into any place of nuisance as defined in Section 95-3-1,
270 Mississippi Code of 1972; any police, sheriff or highway patrol
271 station; any detention facility, prison or jail; any courthouse;
272 any courtroom, except that nothing in this section shall preclude
273 a judge from carrying a concealed weapon or determining who will
274 carry a concealed weapon in his courtroom; any polling place; any
275 meeting place of the governing body of any governmental entity;
276 any meeting of the Legislature or a committee thereof; any public
277 park unless for the purpose of participating in any authorized
278 firearms-related activity; any school, college or professional
279 athletic event not related to firearms; any portion of an
280 establishment, licensed to dispense alcoholic beverages for
281 consumption on the premises, that is primarily devoted to
282 dispensing alcoholic beverages; any portion of an establishment in
283 which beer or light wine is consumed on the premises, that is
284 primarily devoted to such purpose; any elementary or secondary
285 school facility; any junior college, community college, college or
286 university facility unless for the purpose of participating in any
287 authorized firearms-related activity; inside the passenger
288 terminal of any airport, except that no person shall be prohibited
289 from carrying any legal firearm into the terminal if the firearm
290 is encased for shipment, for purposes of checking such firearm as
291 baggage to be lawfully transported on any aircraft; any church or



292 other place of worship; or any place where the carrying of
293 firearms is prohibited by federal law. In addition to the places
294 enumerated in this subsection, the carrying of a stun gun,
295 concealed pistol or revolver may be disallowed in any place in the
296 discretion of the person or entity exercising control over the
297 physical location of such place by the placing of a written notice
298 clearly readable at a distance of not less than ten (10) feet that
299 the "carrying of a pistol or revolver is prohibited." No license
300 issued pursuant to this section shall authorize the participants
301 in a parade or demonstration for which a permit is required to
302 carry a stun gun, concealed pistol or revolver.

303 (14) A law enforcement officer as defined in Section 45-6-3,
304 chiefs of police, sheriffs and persons licensed as professional
305 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
306 1972, shall be exempt from the licensing requirements of this
307 section.

308 (15) Any person who knowingly submits a false answer to any
309 question on an application for a license issued pursuant to this
310 section, or who knowingly submits a false document when applying
311 for a license issued pursuant to this section, shall, upon
312 conviction, be guilty of a misdemeanor and shall be punished as
313 provided in Section 99-19-31, Mississippi Code of 1972.

314 (16) All fees collected by the Department of Public Safety
315 pursuant to this section shall be deposited into a special fund
316 hereby created in the State Treasury and shall be used for
317 implementation and administration of this section. After the
318 close of each fiscal year, the balance in this fund shall be
319 certified to the Legislature and then may be used by the
320 Department of Public Safety as directed by the Legislature.

321 (17) All funds received by a sheriff or police chief
322 pursuant to the provisions of this section shall be deposited into
323 the general fund of the county or municipality, as appropriate,



324 and shall be budgeted to the sheriff's office or police department
325 as appropriate.

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

332 (19) Any person holding a valid unrevoked and unexpired
333 license to carry stun guns, concealed pistols or revolvers issued
334 in another state shall have such license recognized by this state
335 to carry stun guns, concealed pistols or revolvers, provided that
336 the issuing state authorizes license holders from this state to
337 carry stun guns, concealed pistols or revolvers in such issuing
338 state and the appropriate authority has communicated that fact to
339 the Department of Public Safety.

340 (20) The provisions of this section shall be under the
341 supervision of the Commissioner of Public Safety. The
342 commissioner is authorized to promulgate reasonable rules and
343 regulations to carry out the provisions of this section.

344 (21) For the purposes of this section, the term "stun gun"
345 means a portable device or weapon from which an electric current,
346 impulse, wave or beam may be directed, which current, impulse,
347 wave or beam is designed to incapacitate temporarily, injure,
348 momentarily stun, knock out, cause mental disorientation or
349 paralyze.

350 **SECTION 2.** This act shall take effect and be in force from
351 and after July 1, 2009.

