

By: Senator(s) Tollison

To: Judiciary, Division B

SENATE BILL NO. 2862  
(As Sent to Governor)

1 AN ACT TO PROVIDE THAT RETIRED LAW ENFORCEMENT OFFICERS MAY  
2 BE CERTIFIED BY THE MISSISSIPPI ASSOCIATION OF CHIEFS OF POLICE IN  
3 ORDER TO CARRY A CONCEALED WEAPON WITHOUT A PERMIT UNDER FEDERAL  
4 LAW; TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, TO  
5 REMOVE THE PROHIBITION AGAINST CARRYING A WEAPON IN PARKS; AND FOR  
6 RELATED PURPOSES.

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

8 **SECTION 1.** (1) This section may be referred to as the  
9 "HR218 Qualification Law."

10 (2) Any retired law enforcement officer who resides in this  
11 state and for whom the law enforcement agency from which the  
12 officer retired does not participate in the necessary  
13 certification for the retired officer to be certified according to  
14 the Law Enforcement Officers Safety Act of 2004 found at Title 18,  
15 Chapter 44, Section 926B, USC, or who does not reside in  
16 convenient proximity to the law enforcement agency from which the  
17 officer retired, may obtain the necessary certification from the  
18 Mississippi Association of Chiefs of Police.

19 **SECTION 2.** Section 45-9-101, Mississippi Code of 1972, is  
20 amended as follows:

21 45-9-101. (1) (a) The Department of Public Safety is  
22 authorized to issue licenses to carry stun guns, concealed pistols  
23 or revolvers to persons qualified as provided in this section.  
24 Such licenses shall be valid throughout the state for a period of  
25 five (5) years from the date of issuance. Any person possessing a  
26 valid license issued pursuant to this section may carry a stun  
27 gun, concealed pistol or concealed revolver.



28           (b) The licensee must carry the license, together with  
29 valid identification, at all times in which the licensee is  
30 carrying a stun gun, concealed pistol or revolver and must display  
31 both the license and proper identification upon demand by a law  
32 enforcement officer. A violation of the provisions of this  
33 paragraph (b) shall constitute a noncriminal violation with a  
34 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable  
35 by summons.

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

38           (a) Is a resident of the state and has been a resident  
39 for twelve (12) months or longer immediately preceding the filing  
40 of the application. However, this residency requirement may be  
41 waived, provided the applicant possesses a valid permit from  
42 another state, is active military personnel stationed in  
43 Mississippi or is a retired law enforcement officer establishing  
44 residency in the state;

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

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

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

52           (e) Does not chronically or habitually abuse controlled  
53 substances to the extent that his normal faculties are impaired.  
54 It shall be presumed that an applicant chronically and habitually  
55 uses controlled substances to the extent that his faculties are  
56 impaired if the applicant has been voluntarily or involuntarily  
57 committed to a treatment facility for the abuse of a controlled  
58 substance or been found guilty of a crime under the provisions of  
59 the Uniform Controlled Substances Law or similar laws of any other  
60 state or the United States relating to controlled substances



61 within a three-year period immediately preceding the date on which  
62 the application is submitted;

63 (f) Does not chronically and habitually use alcoholic  
64 beverages to the extent that his normal faculties are impaired.  
65 It shall be presumed that an applicant chronically and habitually  
66 uses alcoholic beverages to the extent that his normal faculties  
67 are impaired if the applicant has been voluntarily or  
68 involuntarily committed as an alcoholic to a treatment facility or  
69 has been convicted of two (2) or more offenses related to the use  
70 of alcohol under the laws of this state or similar laws of any  
71 other state or the United States within the three-year period  
72 immediately preceding the date on which the application is  
73 submitted;

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

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

79 (i) Has not been voluntarily or involuntarily committed  
80 to a mental institution or mental health treatment facility unless  
81 he possesses a certificate from a psychiatrist licensed in this  
82 state that he has not suffered from disability for a period of  
83 five (5) years;

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

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

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

91 (3) The Department of Public Safety may deny a license if  
92 the applicant has been found guilty of one or more crimes of  
93 violence constituting a misdemeanor unless three (3) years have



94 elapsed since probation or any other conditions set by the court  
95 have been fulfilled or expunction has occurred prior to the date  
96 on which the application is submitted, or may revoke a license if  
97 the licensee has been found guilty of one or more crimes of  
98 violence within the preceding three (3) years. The department  
99 shall, upon notification by a law enforcement agency or a court  
100 and subsequent written verification, suspend a license or the  
101 processing of an application for a license if the licensee or  
102 applicant is arrested or formally charged with a crime which would  
103 disqualify such person from having a license under this section,  
104 until final disposition of the case. The provisions of subsection  
105 (7) of this section shall apply to any suspension or revocation of  
106 a license pursuant to the provisions of this section.

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

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

112 (b) The driver's license number or social security  
113 number of applicant;

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

116 (d) A statement that the applicant is in compliance  
117 with criteria contained within subsections (2) and (3) of this  
118 section;

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

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



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

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

130 (a) A completed application as described in subsection  
131 (4) of this section;

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

135 (c) A nonrefundable license fee of One Hundred Dollars  
136 (\$100.00). Costs for processing the set of fingerprints as  
137 required in paragraph (d) of this subsection shall be borne by the  
138 applicant. Honorably retired law enforcement officers shall be  
139 exempt from the payment of the license fee;

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

142 (e) A waiver authorizing the Department of Public  
143 Safety access to any records concerning commitments of the  
144 applicant to any of the treatment facilities or institutions  
145 referred to in subsection (2) and permitting access to all the  
146 applicant's criminal records.

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

151 (b) The Department of Public Safety shall forward a  
152 copy of the applicant's application to the sheriff of the  
153 applicant's county of residence and, if applicable, the police  
154 chief of the applicant's municipality of residence. The sheriff  
155 of the applicant's county of residence and, if applicable, the  
156 police chief of the applicant's municipality of residence may, at  
157 his discretion, participate in the process by submitting a



158 voluntary report to the Department of Public Safety containing any  
159 readily discoverable prior information that he feels may be  
160 pertinent to the licensing of any applicant. The reporting shall  
161 be made within thirty (30) days after the date he receives the  
162 copy of the application. Upon receipt of a response from a  
163 sheriff or police chief, such sheriff or police chief shall be  
164 reimbursed at a rate set by the department.

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

168 (i) Issue the license;

169 (ii) Deny the application based solely on the  
170 ground that the applicant fails to qualify under the criteria  
171 listed in subsections (2) and (3) of this section. If the  
172 Department of Public Safety denies the application, it shall  
173 notify the applicant in writing, stating the ground for denial,  
174 and the denial shall be subject to the appeal process set forth in  
175 subsection (7); or

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

181 (d) In the event a legible set of fingerprints, as  
182 determined by the Department of Public Safety and the Federal  
183 Bureau of Investigation, cannot be obtained after a minimum of two  
184 (2) attempts, the Department of Public Safety shall determine  
185 eligibility based upon a name check by the Mississippi Highway  
186 Safety Patrol and a Federal Bureau of Investigation name check  
187 conducted by the Mississippi Highway Safety Patrol at the request  
188 of the Department of Public Safety.

189 (7) (a) If the Department of Public Safety denies the  
190 issuance of a license, or suspends or revokes a license, the party



191 aggrieved may appeal such denial, suspension or revocation to the  
192 Commissioner of Public Safety, or his authorized agent, within  
193 thirty (30) days after the aggrieved party receives written notice  
194 of such denial, suspension or revocation. The Commissioner of  
195 Public Safety, or his duly authorized agent, shall rule upon such  
196 appeal within thirty (30) days after the appeal is filed and  
197 failure to rule within this thirty-day period shall constitute  
198 sustaining such denial, suspension or revocation. Such review  
199 shall be conducted pursuant to such reasonable rules and  
200 regulations as the Commissioner of Public Safety may adopt.

201 (b) If the revocation, suspension or denial of issuance  
202 is sustained by the Commissioner of Public Safety, or his duly  
203 authorized agent pursuant to paragraph (a) of this subsection, the  
204 aggrieved party may file within ten (10) days after the rendition  
205 of such decision a petition in the circuit or county court of his  
206 residence for review of such decision. A hearing for review shall  
207 be held and shall proceed before the court without a jury upon the  
208 record made at the hearing before the Commissioner of Public  
209 Safety or his duly authorized agent. No such party shall be  
210 allowed to carry a stun gun, concealed pistol or revolver pursuant  
211 to the provisions of this section while any such appeal is  
212 pending.

213 (8) The Department of Public Safety shall maintain an  
214 automated listing of license holders and such information shall be  
215 available online, upon request, at all times, to all law  
216 enforcement agencies through the Mississippi Crime Information  
217 Center. However, the records of the department relating to  
218 applications for licenses to carry stun guns, concealed pistols or  
219 revolvers and records relating to license holders shall be exempt  
220 from the provisions of the Mississippi Public Records Act of 1983  
221 for a period of forty-five (45) days from the date of the issuance  
222 of the license or the final denial of an application.



223           (9) Within thirty (30) days after the changing of a  
224 permanent address, or within thirty (30) days after having a  
225 license lost or destroyed, the licensee shall notify the  
226 Department of Public Safety in writing of such change or loss.  
227 Failure to notify the Department of Public Safety pursuant to the  
228 provisions of this subsection shall constitute a noncriminal  
229 violation with a penalty of Twenty-five Dollars (\$25.00) and shall  
230 be enforceable by a summons.

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

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

241           (12) (a) No less than ninety (90) days prior to the  
242 expiration date of the license, the Department of Public Safety  
243 shall mail to each licensee a written notice of the expiration and  
244 a renewal form prescribed by the department. The licensee must  
245 renew his license on or before the expiration date by filing with  
246 the department the renewal form, a notarized affidavit stating  
247 that the licensee remains qualified pursuant to the criteria  
248 specified in subsections (2) and (3) of this section, and a full  
249 set of fingerprints administered by the Department of Public  
250 Safety or the sheriff of the county of residence of the licensee.  
251 The first renewal may be processed by mail and the subsequent  
252 renewal must be made in person. Thereafter every other renewal  
253 may be processed by mail to assure that the applicant must appear  
254 in person every ten (10) years for the purpose of obtaining a new  
255 photograph.





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

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

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

264 (b) The Department of Public Safety shall forward the  
265 full set of fingerprints of the applicant to the appropriate  
266 agencies for state and federal processing. The license shall be  
267 renewed upon receipt of the completed renewal application and  
268 appropriate payment of fees.

269 (c) A licensee who fails to file a renewal application  
270 on or before its expiration date must renew his license by paying  
271 a late fee of Fifteen Dollars (\$15.00). No license shall be  
272 renewed six (6) months or more after its expiration date, and such  
273 license shall be deemed to be permanently expired. A person whose  
274 license has been permanently expired may reapply for licensure;  
275 however, an application for licensure and fees pursuant to  
276 subsection (5) of this section must be submitted, and a background  
277 investigation shall be conducted pursuant to the provisions of  
278 this section.

279 (13) No license issued pursuant to this section shall  
280 authorize any person to carry a stun gun, concealed pistol or  
281 revolver into any place of nuisance as defined in Section 95-3-1,  
282 Mississippi Code of 1972; any police, sheriff or highway patrol  
283 station; any detention facility, prison or jail; any courthouse;  
284 any courtroom, except that nothing in this section shall preclude  
285 a judge from carrying a concealed weapon or determining who will  
286 carry a concealed weapon in his courtroom; any polling place; any  
287 meeting place of the governing body of any governmental entity;  
288 any meeting of the Legislature or a committee thereof; \* \* \* any



289 school, college or professional athletic event not related to  
290 firearms; any portion of an establishment, licensed to dispense  
291 alcoholic beverages for consumption on the premises, that is  
292 primarily devoted to dispensing alcoholic beverages; any portion  
293 of an establishment in which beer or light wine is consumed on the  
294 premises, that is primarily devoted to such purpose; any  
295 elementary or secondary school facility; any junior college,  
296 community college, college or university facility unless for the  
297 purpose of participating in any authorized firearms-related  
298 activity; inside the passenger terminal of any airport, except  
299 that no person shall be prohibited from carrying any legal firearm  
300 into the terminal if the firearm is encased for shipment, for  
301 purposes of checking such firearm as baggage to be lawfully  
302 transported on any aircraft; any church or other place of worship;  
303 or any place where the carrying of firearms is prohibited by  
304 federal law. In addition to the places enumerated in this  
305 subsection, the carrying of a stun gun, concealed pistol or  
306 revolver may be disallowed in any place in the discretion of the  
307 person or entity exercising control over the physical location of  
308 such place by the placing of a written notice clearly readable at  
309 a distance of not less than ten (10) feet that the "carrying of a  
310 pistol or revolver is prohibited." No license issued pursuant to  
311 this section shall authorize the participants in a parade or  
312 demonstration for which a permit is required to carry a stun gun,  
313 concealed pistol or revolver.

314 (14) A law enforcement officer as defined in Section 45-6-3,  
315 chiefs of police, sheriffs and persons licensed as professional  
316 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of  
317 1972, shall be exempt from the licensing requirements of this  
318 section.

319 (15) Any person who knowingly submits a false answer to any  
320 question on an application for a license issued pursuant to this  
321 section, or who knowingly submits a false document when applying



322 for a license issued pursuant to this section, shall, upon  
323 conviction, be guilty of a misdemeanor and shall be punished as  
324 provided in Section 99-19-31, Mississippi Code of 1972.

325 (16) All fees collected by the Department of Public Safety  
326 pursuant to this section shall be deposited into a special fund  
327 hereby created in the State Treasury and shall be used for  
328 implementation and administration of this section. After the  
329 close of each fiscal year, the balance in this fund shall be  
330 certified to the Legislature and then may be used by the  
331 Department of Public Safety as directed by the Legislature.

332 (17) All funds received by a sheriff or police chief  
333 pursuant to the provisions of this section shall be deposited into  
334 the general fund of the county or municipality, as appropriate,  
335 and shall be budgeted to the sheriff's office or police department  
336 as appropriate.

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

343 (19) Any person holding a valid unrevoked and unexpired  
344 license to carry stun guns, concealed pistols or revolvers issued  
345 in another state shall have such license recognized by this state  
346 to carry stun guns, concealed pistols or revolvers, provided that  
347 the issuing state authorizes license holders from this state to  
348 carry stun guns, concealed pistols or revolvers in such issuing  
349 state and the appropriate authority has communicated that fact to  
350 the Department of Public Safety.

351 (20) The provisions of this section shall be under the  
352 supervision of the Commissioner of Public Safety. The  
353 commissioner is authorized to promulgate reasonable rules and  
354 regulations to carry out the provisions of this section.



355           (21) For the purposes of this section, the term "stun gun"  
356 means a portable device or weapon from which an electric current,  
357 impulse, wave or beam may be directed, which current, impulse,  
358 wave or beam is designed to incapacitate temporarily, injure,  
359 momentarily stun, knock out, cause mental disorientation or  
360 paralyze.

361           **SECTION 3.** This act shall take effect and be in force from  
362 and after July 1, 2010.

