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To: Judiciary B

HOUSE BILL NO. 695

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO REVISE RECIPROCITY IN THE CONCEALED WEAPONS PERMIT LAW; AND FOR
3 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 five (5) 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 taken
119 within the preceding thirty (30) days in which the head, including
120 hair, in a size as determined by the Department of Public Safety;

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



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

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

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

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

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

154 (i) Issue the license;

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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



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

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



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

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

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

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

318 (17) All funds received by a sheriff or police chief
319 pursuant to the provisions of this section shall be deposited into
320 the general fund of the county or municipality, as appropriate,
321 and shall be budgeted to the sheriff's office or police department
322 as appropriate.



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

329 (19) Any person holding a valid unrevoked and unexpired
330 license to carry stun guns, concealed pistols or revolvers issued
331 in another state shall have such license recognized by this state
332 to carry stun guns, concealed pistols or revolvers. The
333 Department of Public Safety is authorized to enter into a
334 reciprocal agreement with another state if that state requires a
335 written agreement in order to recognize licenses to carry stun
336 guns, concealed pistols or revolvers issued by this state.

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

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

347 **SECTION 2.** This act shall take effect and be in force from
348 and after July 1, 2012.

