

By: Representatives Hood, Baria, Moak, Bain, Miles, Morgan, Brown (20th), Hines, Lane To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 764

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT DISABLED VETERANS FROM CONCEALED WEAPON PERMIT FEES AND
3 RENEWAL FEES; 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 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) (i) Is twenty-one (21) years of age or older; or

32 (ii) Is at least eighteen (18) years of age but
33 not yet twenty-one (21) years of age and the applicant:

34 1. Is a member or veteran of the United
35 States Armed Forces; and

36 2. Holds a valid Mississippi driver's license
37 or identification card with the "Veteran" designation issued by
38 the Department of Public Safety;

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

41 (d) Is not ineligible to possess a firearm by virtue of
42 having been convicted of a felony in a court of this state, of any



43 other state, or of the United States without having been pardoned
44 for same;

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

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



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

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

72 (i) Has not been voluntarily or involuntarily committed
73 to a mental institution or mental health treatment facility unless
74 he possesses a certificate from a psychiatrist licensed in this
75 state that he has not suffered from disability for a period of
76 five (5) years;

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

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

82 (l) Is not disqualified to possess a weapon based on
83 federal law.

84 (3) The Department of Public Safety may deny a license if
85 the applicant has been found guilty of one or more crimes of
86 violence constituting a misdemeanor unless three (3) years have
87 elapsed since probation or any other conditions set by the court
88 have been fulfilled or expunction has occurred prior to the date
89 on which the application is submitted, or may revoke a license if
90 the licensee has been found guilty of one or more crimes of
91 violence within the preceding three (3) years. The department



92 shall, upon notification by a law enforcement agency or a court
93 and subsequent written verification, suspend a license or the
94 processing of an application for a license if the licensee or
95 applicant is arrested or formally charged with a crime which would
96 disqualify such person from having a license under this section,
97 until final disposition of the case. The provisions of subsection
98 (7) of this section shall apply to any suspension or revocation of
99 a license pursuant to the provisions of this section.

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

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

105 (b) The driver's license number or social security
106 number of applicant;

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

109 (d) A statement that the applicant is in compliance
110 with criteria contained within subsections (2) and (3) of this
111 section;

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

114 (f) A conspicuous warning that the application is
115 executed under oath and that a knowingly false answer to any



116 question, or the knowing submission of any false document by the
117 applicant, subjects the applicant to criminal prosecution; and

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

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

123 (a) A completed application as described in subsection
124 (4) of this section;

125 (b) A full-face photograph of the applicant taken
126 within the preceding thirty (30) days in which the head, including
127 hair, in a size as determined by the Department of Public Safety,
128 except that an applicant who is younger than twenty-one (21) years
129 of age must submit a photograph in profile of the applicant;

130 (c) A nonrefundable license fee of One Hundred Dollars
131 (\$100.00). Costs for processing the set of fingerprints as
132 required in paragraph (d) of this subsection shall be borne by the
133 applicant. Honorably retired law enforcement officers and
134 disabled veterans shall be exempt from the payment of the license
135 fee;

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

138 (e) A waiver authorizing the Department of Public
139 Safety access to any records concerning commitments of the
140 applicant to any of the treatment facilities or institutions



141 referred to in subsection (2) and permitting access to all the
142 applicant's criminal records.

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

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

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

164 (i) Issue the license;



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

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

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

185 (7) (a) If the Department of Public Safety denies the
186 issuance of a license, or suspends or revokes a license, the party
187 aggrieved may appeal such denial, suspension or revocation to the
188 Commissioner of Public Safety, or his authorized agent, within
189 thirty (30) days after the aggrieved party receives written notice



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

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

209 (8) The Department of Public Safety shall maintain an
210 automated listing of license holders and such information shall be
211 available online, upon request, at all times, to all law
212 enforcement agencies through the Mississippi Crime Information
213 Center. However, the records of the department relating to
214 applications for licenses to carry stun guns, concealed pistols or



215 revolvers and records relating to license holders shall be exempt
216 from the provisions of the Mississippi Public Records Act of 1983,
217 and shall be released only upon order of a court having proper
218 jurisdiction over a petition for release of the record or records.

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

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

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

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



240 a renewal form prescribed by the department. The licensee must
241 renew his license on or before the expiration date by filing with
242 the department the renewal form, a notarized affidavit stating
243 that the licensee remains qualified pursuant to the criteria
244 specified in subsections (2) and (3) of this section, and a full
245 set of fingerprints administered by the Department of Public
246 Safety or the sheriff of the county of residence of the licensee.
247 The first renewal may be processed by mail and the subsequent
248 renewal must be made in person. Thereafter every other renewal
249 may be processed by mail to assure that the applicant must appear
250 in person every ten (10) years for the purpose of obtaining a new
251 photograph.

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

255 (ii) Honorably retired law enforcement officers
256 and disabled veterans shall be exempt from the renewal fee; and

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

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



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

275 (13) No license issued pursuant to this section shall
276 authorize any person to carry a stun gun, concealed pistol or
277 revolver into any place of nuisance as defined in Section 95-3-1,
278 Mississippi Code of 1972; any police, sheriff or highway patrol
279 station; any detention facility, prison or jail; any courthouse;
280 any courtroom, except that nothing in this section shall preclude
281 a judge from carrying a concealed weapon or determining who will
282 carry a concealed weapon in his courtroom; any polling place; any
283 meeting place of the governing body of any governmental entity;
284 any meeting of the Legislature or a committee thereof; any school,
285 college or professional athletic event not related to firearms;
286 any portion of an establishment, licensed to dispense alcoholic
287 beverages for consumption on the premises, that is primarily
288 devoted to dispensing alcoholic beverages; any portion of an
289 establishment in which beer or light wine is consumed on the



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

310 (14) A law enforcement officer as defined in Section 45-6-3,
311 chiefs of police, sheriffs and persons licensed as professional
312 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
313 1972, shall be exempt from the licensing requirements of this
314 section. The licensing requirements of this section do not apply



315 to the carrying by any person of a stun gun, pistol or revolver,
316 knife, or other deadly weapon that is not concealed as defined in
317 Section 97-37-1.

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

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

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

336 (18) Nothing in this section shall be construed to require
337 or allow the registration, documentation or providing of serial
338 numbers with regard to any stun gun or firearm.



339 (19) Any person holding a valid unrevoked and unexpired
340 license to carry stun guns, concealed pistols or revolvers issued
341 in another state shall have such license recognized by this state
342 to carry stun guns, concealed pistols or revolvers. The
343 Department of Public Safety is authorized to enter into a
344 reciprocal agreement with another state if that state requires a
345 written agreement in order to recognize licenses to carry stun
346 guns, concealed pistols or revolvers issued by this state.

347 (20) The provisions of this section shall be under the
348 supervision of the Commissioner of Public Safety. The
349 commissioner is authorized to promulgate reasonable rules and
350 regulations to carry out the provisions of this section.

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

357 **SECTION 2.** This act shall take effect and be in force from
358 and after July 1, 2014.

