

By: Representative Moore

To: Judiciary B; Ways and Means

HOUSE BILL NO. 897

1 AN ACT TO PROHIBIT ANY MUNICIPALITY, COUNTY OR ANY OTHER
 2 POLITICAL SUBDIVISION OF THIS STATE FROM ADOPTING OR ENACTING ANY
 3 RESOLUTION OR ORDINANCE, RULE OR TAX RELATING TO KNIVES; TO AMEND
 4 SECTION 97-37-1, MISSISSIPPI CODE OF 1972, TO REMOVE KNIVES OR
 5 KNIFE RELATED ITEMS FROM THE CONCEALED WEAPON PROVISION; TO AMEND
 6 SECTIONS 21-19-33, 27-17-299, 27-17-415 AND 45-9-101, MISSISSIPPI
 7 CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
 8 SECTION 97-37-19, MISSISSIPPI CODE OF 1972, TO REMOVE KNIVES OR
 9 KNIFE RELATED ITEMS FROM PENALTY FOR VIOLATION OF CONCEALED
 10 WEAPONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) No municipality, county or any other
 13 political subdivision of this state may adopt or enact any
 14 resolution or ordinance, rule or tax relating to:

15 (a) The transportation, possession, carrying, sale,
 16 transfer, purchase, gift, devise, licensing, registration or use
 17 of a knife or knife making components in this state; or

18 (b) The manufacture of a knife that is more restrictive
 19 than any rule or ordinance relating to the manufacture of any
 20 other commercial goods.



21 (2) A political subdivision's rule or ordinance that relates
22 to knives, whether enacted before or after the effective date of
23 this section, shall be repealed.

24 (3) For purposes of this section, the word, "knife," means a
25 cutting instrument and includes a sharpened or pointed blade and
26 also has the same meaning as otherwise defined by state law.

27 **SECTION 2.** Section 97-37-1, Mississippi Code of 1972, is
28 amended as follows:

29 97-37-1. (1) Except as otherwise provided in Section
30 45-9-101, any person who carries, concealed on or about one's
31 person, * * * metallic knuckles, blackjack, slingshot, pistol,
32 revolver, or any rifle with a barrel of less than sixteen (16)
33 inches in length, or any shotgun with a barrel of less than
34 eighteen (18) inches in length, machine gun or any fully automatic
35 firearm or deadly weapon, or any muffler or silencer for any
36 firearm, whether or not it is accompanied by a firearm, or uses or
37 attempts to use against another person any imitation firearm,
38 shall, upon conviction, be punished as follows:

39 (a) By a fine of not less than One Hundred Dollars
40 (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by
41 imprisonment in the county jail for not more than six (6) months,
42 or both, in the discretion of the court, for the first conviction
43 under this section.

44 (b) By a fine of not less than One Hundred Dollars
45 (\$100.00) nor more than Five Hundred Dollars (\$500.00), and



46 imprisonment in the county jail for not less than thirty (30) days
47 nor more than six (6) months, for the second conviction under this
48 section.

49 (c) By confinement in the custody of the Department of
50 Corrections for not less than one (1) year nor more than five (5)
51 years, for the third or subsequent conviction under this section.

52 (d) By confinement in the custody of the Department of
53 Corrections for not less than one (1) year nor more than ten (10)
54 years for any person previously convicted of any felony who is
55 convicted under this section.

56 (2) It shall not be a violation of this section for any
57 person over the age of eighteen (18) years to carry a firearm or
58 deadly weapon concealed within the confines of his own home or his
59 place of business, or any real property associated with his home
60 or business or within any motor vehicle.

61 (3) It shall not be a violation of this section for any
62 person to carry a firearm or deadly weapon concealed if the
63 possessor of the weapon is then engaged in a legitimate
64 weapon-related sports activity or is going to or returning from
65 such activity. For purposes of this subsection, "legitimate
66 weapon-related sports activity" means hunting, fishing, target
67 shooting or any other legal activity which normally involves the
68 use of a firearm or other weapon.

69 (4) For the purposes of this section, "concealed" means
70 hidden or obscured from common observation and shall not include



71 any weapon listed in subsection (1) of this section, including,
72 but not limited to, a loaded or unloaded pistol carried upon the
73 person in a sheath, belt holster or shoulder holster that is
74 wholly or partially visible, or carried upon the person in a
75 scabbard or case for carrying the weapon that is wholly or
76 partially visible.

77 **SECTION 3.** Section 21-19-33, Mississippi Code of 1972, is
78 amended as follows:

79 21-19-33. The governing authorities of municipalities shall
80 have the power to adopt reasonable ordinances for the regulation
81 of circuses, shows, theaters, bowling alleys, concerts, theatrical
82 exhibitions, skating rinks, pistol or shooting galleries,
83 amusement parks and devices, and other similar things. Said
84 authorities shall have the power and authority to regulate,
85 prohibit, or suppress billiard tables, poolrooms, fortune-tellers,
86 cane * * * racks, and slot machines and other gambling devices
87 within the corporate limits. However, such governing authorities
88 shall not be authorized to regulate, prohibit or suppress any
89 gambling device, machine or equipment that is owned, possessed,
90 controlled, installed, procured, repaired or transported within
91 the corporate limits in accordance with subsection (4) of Section
92 97-33-7 or Section 75-76-34. In addition, such governing
93 authorities shall not be authorized to regulate, prohibit or
94 suppress the ownership and display of antique coin machines as
95 defined in Section 27-27-12.



96 **SECTION 4.** Section 27-17-299, Mississippi Code of 1972, is
97 amended as follows:

98 27-17-299. Upon each pawn broker.....\$250.00
99 Upon each pawn broker who receives in pawn any dirk, * * *
100 sword-cane, brass or metal knucks or pistol, (additional
101 tax)..... \$250.00

102 **SECTION 5.** Section 27-17-415, Mississippi Code of 1972, is
103 amended as follows:

104 27-17-415. Upon each person selling pistols, * * * sword canes,
105 brass or metallic knuckles, or other deadly weapons (excepting
106 hunting knives, shot guns and rifles)..... \$100.00

107 **SECTION 6.** Section 45-9-101, Mississippi Code of 1972, is
108 amended as follows:

109 45-9-101. (1) (a) The Department of Public Safety is
110 authorized to issue licenses to carry stun guns, concealed pistols
111 or revolvers to persons qualified as provided in this section.
112 Such licenses shall be valid throughout the state for a period of
113 five (5) years from the date of issuance. Any person possessing a
114 valid license issued pursuant to this section may carry a stun
115 gun, concealed pistol or concealed revolver.

116 (b) The licensee must carry the license, together with
117 valid identification, at all times in which the licensee is
118 carrying a stun gun, concealed pistol or revolver and must display
119 both the license and proper identification upon demand by a law
120 enforcement officer. A violation of the provisions of this



121 paragraph (b) shall constitute a noncriminal violation with a
122 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
123 by summons.

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

126 (a) Is a resident of the state and has been a resident
127 for twelve (12) months or longer immediately preceding the filing
128 of the application. However, this residency requirement may be
129 waived, provided the applicant possesses a valid permit from
130 another state, is active military personnel stationed in
131 Mississippi, or is a retired law enforcement officer establishing
132 residency in the state;

133 (b) (i) Is twenty-one (21) years of age or older; or
134 (ii) Is at least eighteen (18) years of age but
135 not yet twenty-one (21) years of age and the applicant:

136 1. Is a member or veteran of the United
137 States Armed Forces; and

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

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

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



145 other state, or of the United States without having been pardoned
146 for same;

147 (e) Does not chronically or habitually abuse controlled
148 substances to the extent that his normal faculties are impaired.
149 It shall be presumed that an applicant chronically and habitually
150 uses controlled substances to the extent that his faculties are
151 impaired if the applicant has been voluntarily or involuntarily
152 committed to a treatment facility for the abuse of a controlled
153 substance or been found guilty of a crime under the provisions of
154 the Uniform Controlled Substances Law or similar laws of any other
155 state or the United States relating to controlled substances
156 within a three-year period immediately preceding the date on which
157 the application is submitted;

158 (f) Does not chronically and habitually use alcoholic
159 beverages to the extent that his normal faculties are impaired.
160 It shall be presumed that an applicant chronically and habitually
161 uses alcoholic beverages to the extent that his normal faculties
162 are impaired if the applicant has been voluntarily or
163 involuntarily committed as an alcoholic to a treatment facility or
164 has been convicted of two (2) or more offenses related to the use
165 of alcohol under the laws of this state or similar laws of any
166 other state or the United States within the three-year period
167 immediately preceding the date on which the application is
168 submitted;



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

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

174 (i) Has not been voluntarily or involuntarily committed
175 to a mental institution or mental health treatment facility unless
176 he possesses a certificate from a psychiatrist licensed in this
177 state that he has not suffered from disability for a period of
178 five (5) years;

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

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

184 (l) Is not disqualified to possess a weapon based on
185 federal law.

186 (3) The Department of Public Safety may deny a license if
187 the applicant has been found guilty of one or more crimes of
188 violence constituting a misdemeanor unless three (3) years have
189 elapsed since probation or any other conditions set by the court
190 have been fulfilled or expunction has occurred prior to the date
191 on which the application is submitted, or may revoke a license if
192 the licensee has been found guilty of one or more crimes of
193 violence within the preceding three (3) years. The department



194 shall, upon notification by a law enforcement agency or a court
195 and subsequent written verification, suspend a license or the
196 processing of an application for a license if the licensee or
197 applicant is arrested or formally charged with a crime which would
198 disqualify such person from having a license under this section,
199 until final disposition of the case. The provisions of subsection
200 (7) of this section shall apply to any suspension or revocation of
201 a license pursuant to the provisions of this section.

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

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

207 (b) The driver's license number or social security
208 number of applicant;

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

211 (d) A statement that the applicant is in compliance
212 with criteria contained within subsections (2) and (3) of this
213 section;

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

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



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

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

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

225 (a) A completed application as described in subsection
226 (4) of this section;

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

232 (c) A nonrefundable license fee of One Hundred Dollars
233 (\$100.00). Costs for processing the set of fingerprints as
234 required in paragraph (d) of this subsection shall be borne by the
235 applicant. Honorably retired law enforcement officers shall be
236 exempt from the payment of the license fee;

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

239 (e) A waiver authorizing the Department of Public
240 Safety access to any records concerning commitments of the
241 applicant to any of the treatment facilities or institutions



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

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

248 (b) The Department of Public Safety shall forward a
249 copy of the applicant's application to the sheriff of the
250 applicant's county of residence and, if applicable, the police
251 chief of the applicant's municipality of residence. The sheriff
252 of the applicant's county of residence and, if applicable, the
253 police chief of the applicant's municipality of residence may, at
254 his discretion, participate in the process by submitting a
255 voluntary report to the Department of Public Safety containing any
256 readily discoverable prior information that he feels may be
257 pertinent to the licensing of any applicant. The reporting shall
258 be made within thirty (30) days after the date he receives the
259 copy of the application. Upon receipt of a response from a
260 sheriff or police chief, such sheriff or police chief shall be
261 reimbursed at a rate set by the department.

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

265 (i) Issue the license;



266 (ii) Deny the application based solely on the
267 ground that the applicant fails to qualify under the criteria
268 listed in subsections (2) and (3) of this section. If the
269 Department of Public Safety denies the application, it shall
270 notify the applicant in writing, stating the ground for denial,
271 and the denial shall be subject to the appeal process set forth in
272 subsection (7); or

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

278 (d) In the event a legible set of fingerprints, as
279 determined by the Department of Public Safety and the Federal
280 Bureau of Investigation, cannot be obtained after a minimum of two
281 (2) attempts, the Department of Public Safety shall determine
282 eligibility based upon a name check by the Mississippi Highway
283 Safety Patrol and a Federal Bureau of Investigation name check
284 conducted by the Mississippi Highway Safety Patrol at the request
285 of the Department of Public Safety.

286 (7) (a) If the Department of Public Safety denies the
287 issuance of a license, or suspends or revokes a license, the party
288 aggrieved may appeal such denial, suspension or revocation to the
289 Commissioner of Public Safety, or his authorized agent, within
290 thirty (30) days after the aggrieved party receives written notice



291 of such denial, suspension or revocation. The Commissioner of
292 Public Safety, or his duly authorized agent, shall rule upon such
293 appeal within thirty (30) days after the appeal is filed and
294 failure to rule within this thirty-day period shall constitute
295 sustaining such denial, suspension or revocation. Such review
296 shall be conducted pursuant to such reasonable rules and
297 regulations as the Commissioner of Public Safety may adopt.

298 (b) If the revocation, suspension or denial of issuance
299 is sustained by the Commissioner of Public Safety, or his duly
300 authorized agent pursuant to paragraph (a) of this subsection, the
301 aggrieved party may file within ten (10) days after the rendition
302 of such decision a petition in the circuit or county court of his
303 residence for review of such decision. A hearing for review shall
304 be held and shall proceed before the court without a jury upon the
305 record made at the hearing before the Commissioner of Public
306 Safety or his duly authorized agent. No such party shall be
307 allowed to carry a stun gun, concealed pistol or revolver pursuant
308 to the provisions of this section while any such appeal is
309 pending.

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



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

320 (9) Within thirty (30) days after the changing of a
321 permanent address, or within thirty (30) days after having a
322 license lost or destroyed, the licensee shall notify the
323 Department of Public Safety in writing of such change or loss.
324 Failure to notify the Department of Public Safety pursuant to the
325 provisions of this subsection shall constitute a noncriminal
326 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
327 be enforceable by a summons.

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

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

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



341 a renewal form prescribed by the department. The licensee must
342 renew his license on or before the expiration date by filing with
343 the department the renewal form, a notarized affidavit stating
344 that the licensee remains qualified pursuant to the criteria
345 specified in subsections (2) and (3) of this section, and a full
346 set of fingerprints administered by the Department of Public
347 Safety or the sheriff of the county of residence of the licensee.
348 The first renewal may be processed by mail and the subsequent
349 renewal must be made in person. Thereafter every other renewal
350 may be processed by mail to assure that the applicant must appear
351 in person every ten (10) years for the purpose of obtaining a new
352 photograph.

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

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

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

361 (b) The Department of Public Safety shall forward the
362 full set of fingerprints of the applicant to the appropriate
363 agencies for state and federal processing. The license shall be
364 renewed upon receipt of the completed renewal application and
365 appropriate payment of fees.



366 (c) A licensee who fails to file a renewal application
367 on or before its expiration date must renew his license by paying
368 a late fee of Fifteen Dollars (\$15.00). No license shall be
369 renewed six (6) months or more after its expiration date, and such
370 license shall be deemed to be permanently expired. A person whose
371 license has been permanently expired may reapply for licensure;
372 however, an application for licensure and fees pursuant to
373 subsection (5) of this section must be submitted, and a background
374 investigation shall be conducted pursuant to the provisions of
375 this section.

376 (13) No license issued pursuant to this section shall
377 authorize any person to carry a stun gun, concealed pistol or
378 revolver into any place of nuisance as defined in Section 95-3-1,
379 Mississippi Code of 1972; any police, sheriff or highway patrol
380 station; any detention facility, prison or jail; any courthouse;
381 any courtroom, except that nothing in this section shall preclude
382 a judge from carrying a concealed weapon or determining who will
383 carry a concealed weapon in his courtroom; any polling place; any
384 meeting place of the governing body of any governmental entity;
385 any meeting of the Legislature or a committee thereof; any school,
386 college or professional athletic event not related to firearms;
387 any portion of an establishment, licensed to dispense alcoholic
388 beverages for consumption on the premises, that is primarily
389 devoted to dispensing alcoholic beverages; any portion of an
390 establishment in which beer or light wine is consumed on the



391 premises, that is primarily devoted to such purpose; any
392 elementary or secondary school facility; any junior college,
393 community college, college or university facility unless for the
394 purpose of participating in any authorized firearms-related
395 activity; inside the passenger terminal of any airport, except
396 that no person shall be prohibited from carrying any legal firearm
397 into the terminal if the firearm is encased for shipment, for
398 purposes of checking such firearm as baggage to be lawfully
399 transported on any aircraft; any church or other place of worship;
400 or any place where the carrying of firearms is prohibited by
401 federal law. In addition to the places enumerated in this
402 subsection, the carrying of a stun gun, concealed pistol or
403 revolver may be disallowed in any place in the discretion of the
404 person or entity exercising control over the physical location of
405 such place by the placing of a written notice clearly readable at
406 a distance of not less than ten (10) feet that the "carrying of a
407 pistol or revolver is prohibited." No license issued pursuant to
408 this section shall authorize the participants in a parade or
409 demonstration for which a permit is required to carry a stun gun,
410 concealed pistol or revolver.

411 (14) A law enforcement officer as defined in Section 45-6-3,
412 chiefs of police, sheriffs and persons licensed as professional
413 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
414 1972, shall be exempt from the licensing requirements of this
415 section. The licensing requirements of this section do not apply



416 to the carrying by any person of a stun gun, pistol or
417 revolver, * * * or other deadly weapon that is not concealed as
418 defined in Section 97-37-1.

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

425 (16) All fees collected by the Department of Public Safety
426 pursuant to this section shall be deposited into a special fund
427 hereby created in the State Treasury and shall be used for
428 implementation and administration of this section. After the
429 close of each fiscal year, the balance in this fund shall be
430 certified to the Legislature and then may be used by the
431 Department of Public Safety as directed by the Legislature.

432 (17) All funds received by a sheriff or police chief
433 pursuant to the provisions of this section shall be deposited into
434 the general fund of the county or municipality, as appropriate,
435 and shall be budgeted to the sheriff's office or police department
436 as appropriate.

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



440 (19) Any person holding a valid unrevoked and unexpired
441 license to carry stun guns, concealed pistols or revolvers issued
442 in another state shall have such license recognized by this state
443 to carry stun guns, concealed pistols or revolvers. The
444 Department of Public Safety is authorized to enter into a
445 reciprocal agreement with another state if that state requires a
446 written agreement in order to recognize licenses to carry stun
447 guns, concealed pistols or revolvers issued by this state.

448 (20) The provisions of this section shall be under the
449 supervision of the Commissioner of Public Safety. The
450 commissioner is authorized to promulgate reasonable rules and
451 regulations to carry out the provisions of this section.

452 (21) For the purposes of this section, the term "stun gun"
453 means a portable device or weapon from which an electric current,
454 impulse, wave or beam may be directed, which current, impulse,
455 wave or beam is designed to incapacitate temporarily, injure,
456 momentarily stun, knock out, cause mental disorientation or
457 paralyze.

458 **SECTION 7.** Section 97-37-19, Mississippi Code of 1972, is
459 amended as follows:

460 97-37-19. If any person, having or carrying any * * * weapon
461 the carrying of which concealed is prohibited by Section 97-37-1,
462 shall, in the presence of another person, brandish or wield the
463 same in a threatening manner, not in necessary self-defense, or
464 shall in any manner unlawfully use the same in any fight or



465 quarrel, the person so offending, upon conviction thereof, shall
466 be fined in a sum not exceeding Five Hundred Dollars (\$500.00) or
467 be imprisoned in the county jail not exceeding three (3) months,
468 or both. In prosecutions under this section it shall not be
469 necessary for the affidavit or indictment to aver, nor for the
470 state to prove on the trial, that any gun, pistol, or other
471 firearm was charged, loaded, or in condition to be discharged.

472 **SECTION 8.** This act shall take effect and be in force from
473 and after July 1, 2014.

