

By: Representatives Rushing, DeBar, Morgan,
Nelson

To: Judiciary A

HOUSE BILL NO. 161

1 AN ACT TO AMEND SECTION 45-6-3, MISSISSIPPI CODE OF 1972, TO
2 DEFINE "RETIRED LAW ENFORCEMENT OFFICER"; TO AMEND SECTION
3 45-9-101, MISSISSIPPI CODE OF 1972, TO EXEMPT RETIRED LAW
4 ENFORCEMENT OFFICERS FROM LICENSING REQUIREMENTS TO CARRY A
5 CONCEALED WEAPON; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 45-6-3, Mississippi Code of 1972, is
8 amended as follows:

9 45-6-3. For the purposes of this chapter, the following
10 words shall have the meanings ascribed herein, unless the context
11 shall otherwise require:

12 (a) "Commission" means the Criminal Justice Planning
13 Commission.

14 (b) "Board" means the Board on Law Enforcement Officer
15 Standards and Training.

16 (c) "Law enforcement officer" means any person
17 appointed or employed full time by the state or any political
18 subdivision thereof, or by the state military department as
19 provided in Section 33-1-33, who is duly sworn and vested with



20 authority to bear arms and make arrests, and whose primary
21 responsibility is the prevention and detection of crime, the
22 apprehension of criminals and the enforcement of the criminal and
23 traffic laws of this state and/or the ordinances of any political
24 subdivision thereof. The term "law enforcement officer" also
25 includes employees of the Department of Corrections who are
26 designated as law enforcement officers by the Commissioner of
27 Corrections pursuant to Section 47-5-54, and includes those
28 district attorney criminal investigators who are designated as law
29 enforcement officers. However, the term "law enforcement officer"
30 shall not mean or include any elected official or any person
31 employed as a legal assistant to a district attorney in this
32 state, compliance agents of the State Board of Pharmacy, or any
33 person or elected official who, subject to approval by the board,
34 provides some criminal justice related services for a law
35 enforcement agency. As used in this paragraph, "appointed or
36 employed full time" means any person who is receiving gross
37 compensation for his duties as a law enforcement officer of Two
38 Hundred Fifty Dollars (\$250.00) or more per week or One Thousand
39 Seventy-five Dollars (\$1,075.00) or more per month.

40 (d) "Part-time law enforcement officer" shall mean any
41 person appointed or employed in a part-time, reserve or auxiliary
42 capacity by the state or any political subdivision thereof who is
43 duly sworn and vested with authority to bear arms and make
44 arrests, and whose primary responsibility is the prevention and



45 detection of crime, the apprehension of criminals and the
46 enforcement of the criminal and traffic laws of this state or the
47 ordinances of any political subdivision thereof. However, the
48 term "part-time law enforcement officer" shall not mean or include
49 any person or elected official who, subject to approval by the
50 board, provides some criminal justice related services for a law
51 enforcement agency. As used in this paragraph, "appointed or
52 employed" means any person who is performing such duties at any
53 time whether or not they receive any compensation for duties as a
54 law enforcement officer provided that such compensation is less
55 than Two Hundred Fifty Dollars (\$250.00) per week or One Thousand
56 Seventy-five Dollars (\$1,075.00) per month.

57 (e) "Law enforcement trainee" shall mean any person
58 appointed or employed in a full-time, part-time, reserve or
59 auxiliary capacity by the state or any political subdivision
60 thereof for the purposes of completing all the selection and
61 training requirements established by the board to become a law
62 enforcement officer or a part-time law enforcement officer. Such
63 individuals shall not have the authority to use force, bear arms,
64 make arrests or exercise any of the powers of a peace officer
65 unless:

66 (i) The trainee is under the direct control and
67 supervision of a law enforcement officer;

68 (ii) The trainee was previously certified under
69 this chapter; or



70 (iii) The trainee is a certified law enforcement
71 officer in a reciprocating state.

72 (f) "Retired law enforcement officer" shall mean an
73 individual who separated from service in good standing with a
74 public agency as a law enforcement officer and before such
75 separation, was authorized by law to engage in or supervise the
76 prevention, detection, investigation, or prosecution of, or the
77 incarceration of any person for, any violation of law, and had
78 statutory powers of arrest or apprehension under paragraph (c) of
79 this section. Local and state officers will receive appropriate
80 retired credentials from the department from which they retired.
81 The retiree must provide a photo ID card bearing the service logo
82 along with the retiree's full name, date of birth and branch of
83 service, as well as date of issuance. It will bear the retiree's
84 rank/signature and the signature of the Commissioner of Public
85 Safety or his representative indicating verification of qualified
86 service has been conducted.

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

89 45-9-101. (1) (a) The Department of Public Safety is
90 authorized to issue licenses to carry stun guns, concealed pistols
91 or revolvers to persons qualified as provided in this section.
92 Such licenses shall be valid throughout the state for a period of
93 five (5) years from the date of issuance. Any person possessing a



94 valid license issued pursuant to this section may carry a stun
95 gun, concealed pistol or concealed revolver.

96 (b) The licensee must carry the license, together with
97 valid identification, at all times in which the licensee is
98 carrying a stun gun, concealed pistol or revolver and must display
99 both the license and proper identification upon demand by a law
100 enforcement officer. A violation of the provisions of this
101 paragraph (b) shall constitute a noncriminal violation with a
102 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
103 by summons.

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

106 (a) Is a resident of the state and has been a resident
107 for twelve (12) months or longer immediately preceding the filing
108 of the application. However, this residency requirement may be
109 waived, provided the applicant possesses a valid permit from
110 another state, is active military personnel stationed in
111 Mississippi, or is a retired law enforcement officer establishing
112 residency in the state;

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

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

116 1. Is a member or veteran of the United
117 States Armed Forces; and



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

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

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

127 (e) Does not chronically or habitually abuse controlled
128 substances to the extent that his normal faculties are impaired.
129 It shall be presumed that an applicant chronically and habitually
130 uses controlled substances to the extent that his faculties are
131 impaired if the applicant has been voluntarily or involuntarily
132 committed to a treatment facility for the abuse of a controlled
133 substance or been found guilty of a crime under the provisions of
134 the Uniform Controlled Substances Law or similar laws of any other
135 state or the United States relating to controlled substances
136 within a three-year period immediately preceding the date on which
137 the application is submitted;

138 (f) Does not chronically and habitually use alcoholic
139 beverages to the extent that his normal faculties are impaired.
140 It shall be presumed that an applicant chronically and habitually
141 uses alcoholic beverages to the extent that his normal faculties
142 are impaired if the applicant has been voluntarily or



143 involuntarily committed as an alcoholic to a treatment facility or
144 has been convicted of two (2) or more offenses related to the use
145 of alcohol under the laws of this state or similar laws of any
146 other state or the United States within the three-year period
147 immediately preceding the date on which the application is
148 submitted;

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

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

154 (i) Has not been voluntarily or involuntarily committed
155 to a mental institution or mental health treatment facility unless
156 he possesses a certificate from a psychiatrist licensed in this
157 state that he has not suffered from disability for a period of
158 five (5) years;

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

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

164 (l) Is not disqualified to possess a weapon based on
165 federal law.

166 (3) The Department of Public Safety may deny a license if
167 the applicant has been found guilty of one or more crimes of



168 violence constituting a misdemeanor unless three (3) years have
169 elapsed since probation or any other conditions set by the court
170 have been fulfilled or expunction has occurred prior to the date
171 on which the application is submitted, or may revoke a license if
172 the licensee has been found guilty of one or more crimes of
173 violence within the preceding three (3) years. The department
174 shall, upon notification by a law enforcement agency or a court
175 and subsequent written verification, suspend a license or the
176 processing of an application for a license if the licensee or
177 applicant is arrested or formally charged with a crime which would
178 disqualify such person from having a license under this section,
179 until final disposition of the case. The provisions of subsection
180 (7) of this section shall apply to any suspension or revocation of
181 a license pursuant to the provisions of this section.

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

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

187 (b) The driver's license number or social security
188 number of applicant;

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



191 (d) A statement that the applicant is in compliance
192 with criteria contained within subsections (2) and (3) of this
193 section;

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

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

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

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

205 (a) A completed application as described in subsection
206 (4) of this section;

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

212 (c) A nonrefundable license fee of One Hundred Dollars
213 (\$100.00). Costs for processing the set of fingerprints as
214 required in paragraph (d) of this subsection shall be borne by the
215 applicant. Honorably retired law enforcement officers and



216 disabled veterans shall be exempt from the payment of the license
217 fee;

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

220 (e) A waiver authorizing the Department of Public
221 Safety access to any records concerning commitments of the
222 applicant to any of the treatment facilities or institutions
223 referred to in subsection (2) and permitting access to all the
224 applicant's criminal records.

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

229 (b) The Department of Public Safety shall forward a
230 copy of the applicant's application to the sheriff of the
231 applicant's county of residence and, if applicable, the police
232 chief of the applicant's municipality of residence. The sheriff
233 of the applicant's county of residence and, if applicable, the
234 police chief of the applicant's municipality of residence may, at
235 his discretion, participate in the process by submitting a
236 voluntary report to the Department of Public Safety containing any
237 readily discoverable prior information that he feels may be
238 pertinent to the licensing of any applicant. The reporting shall
239 be made within thirty (30) days after the date he receives the
240 copy of the application. Upon receipt of a response from a



241 sheriff or police chief, such sheriff or police chief shall be
242 reimbursed at a rate set by the department.

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

246 (i) Issue the license;

247 (ii) Deny the application based solely on the
248 ground that the applicant fails to qualify under the criteria
249 listed in subsections (2) and (3) of this section. If the
250 Department of Public Safety denies the application, it shall
251 notify the applicant in writing, stating the ground for denial,
252 and the denial shall be subject to the appeal process set forth in
253 subsection (7); or

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

259 (d) In the event a legible set of fingerprints, as
260 determined by the Department of Public Safety and the Federal
261 Bureau of Investigation, cannot be obtained after a minimum of two
262 (2) attempts, the Department of Public Safety shall determine
263 eligibility based upon a name check by the Mississippi Highway
264 Safety Patrol and a Federal Bureau of Investigation name check



265 conducted by the Mississippi Highway Safety Patrol at the request
266 of the Department of Public Safety.

267 (7) (a) If the Department of Public Safety denies the
268 issuance of a license, or suspends or revokes a license, the party
269 aggrieved may appeal such denial, suspension or revocation to the
270 Commissioner of Public Safety, or his authorized agent, within
271 thirty (30) days after the aggrieved party receives written notice
272 of such denial, suspension or revocation. The Commissioner of
273 Public Safety, or his duly authorized agent, shall rule upon such
274 appeal within thirty (30) days after the appeal is filed and
275 failure to rule within this thirty-day period shall constitute
276 sustaining such denial, suspension or revocation. Such review
277 shall be conducted pursuant to such reasonable rules and
278 regulations as the Commissioner of Public Safety may adopt.

279 (b) If the revocation, suspension or denial of issuance
280 is sustained by the Commissioner of Public Safety, or his duly
281 authorized agent pursuant to paragraph (a) of this subsection, the
282 aggrieved party may file within ten (10) days after the rendition
283 of such decision a petition in the circuit or county court of his
284 residence for review of such decision. A hearing for review shall
285 be held and shall proceed before the court without a jury upon the
286 record made at the hearing before the Commissioner of Public
287 Safety or his duly authorized agent. No such party shall be
288 allowed to carry a stun gun, concealed pistol or revolver pursuant



289 to the provisions of this section while any such appeal is
290 pending.

291 (8) The Department of Public Safety shall maintain an
292 automated listing of license holders and such information shall be
293 available online, upon request, at all times, to all law
294 enforcement agencies through the Mississippi Crime Information
295 Center. However, the records of the department relating to
296 applications for licenses to carry stun guns, concealed pistols or
297 revolvers and records relating to license holders shall be exempt
298 from the provisions of the Mississippi Public Records Act of 1983,
299 and shall be released only upon order of a court having proper
300 jurisdiction over a petition for release of the record or records.

301 (9) Within thirty (30) days after the changing of a
302 permanent address, or within thirty (30) days after having a
303 license lost or destroyed, the licensee shall notify the
304 Department of Public Safety in writing of such change or loss.
305 Failure to notify the Department of Public Safety pursuant to the
306 provisions of this subsection shall constitute a noncriminal
307 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
308 be enforceable by a summons.

309 (10) In the event that a stun gun, concealed pistol or
310 revolver license is lost or destroyed, the person to whom the
311 license was issued shall comply with the provisions of subsection
312 (9) of this section and may obtain a duplicate, or substitute
313 thereof, upon payment of Fifteen Dollars (\$15.00) to the



314 Department of Public Safety, and furnishing a notarized statement
315 to the department that such license has been lost or destroyed.

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

319 (12) (a) No less than ninety (90) days prior to the
320 expiration date of the license, the Department of Public Safety
321 shall mail to each licensee a written notice of the expiration and
322 a renewal form prescribed by the department. The licensee must
323 renew his license on or before the expiration date by filing with
324 the department the renewal form, a notarized affidavit stating
325 that the licensee remains qualified pursuant to the criteria
326 specified in subsections (2) and (3) of this section, and a full
327 set of fingerprints administered by the Department of Public
328 Safety or the sheriff of the county of residence of the licensee.
329 The first renewal may be processed by mail and the subsequent
330 renewal must be made in person. Thereafter every other renewal
331 may be processed by mail to assure that the applicant must appear
332 in person every ten (10) years for the purpose of obtaining a new
333 photograph.

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

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



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

342 (b) The Department of Public Safety shall forward the
343 full set of fingerprints of the applicant to the appropriate
344 agencies for state and federal processing. The license shall be
345 renewed upon receipt of the completed renewal application and
346 appropriate payment of fees.

347 (c) A licensee who fails to file a renewal application
348 on or before its expiration date must renew his license by paying
349 a late fee of Fifteen Dollars (\$15.00). No license shall be
350 renewed six (6) months or more after its expiration date, and such
351 license shall be deemed to be permanently expired. A person whose
352 license has been permanently expired may reapply for licensure;
353 however, an application for licensure and fees pursuant to
354 subsection (5) of this section must be submitted, and a background
355 investigation shall be conducted pursuant to the provisions of
356 this section.

357 (13) No license issued pursuant to this section shall
358 authorize any person to carry a stun gun, concealed pistol or
359 revolver into any place of nuisance as defined in Section 95-3-1,
360 Mississippi Code of 1972; any police, sheriff or highway patrol
361 station; any detention facility, prison or jail; any courthouse;
362 any courtroom, except that nothing in this section shall preclude
363 a judge from carrying a concealed weapon or determining who will



364 carry a concealed weapon in his courtroom; any polling place; any
365 meeting place of the governing body of any governmental entity;
366 any meeting of the Legislature or a committee thereof; any school,
367 college or professional athletic event not related to firearms;
368 any portion of an establishment, licensed to dispense alcoholic
369 beverages for consumption on the premises, that is primarily
370 devoted to dispensing alcoholic beverages; any portion of an
371 establishment in which beer or light wine is consumed on the
372 premises, that is primarily devoted to such purpose; any
373 elementary or secondary school facility; any junior college,
374 community college, college or university facility unless for the
375 purpose of participating in any authorized firearms-related
376 activity; inside the passenger terminal of any airport, except
377 that no person shall be prohibited from carrying any legal firearm
378 into the terminal if the firearm is encased for shipment, for
379 purposes of checking such firearm as baggage to be lawfully
380 transported on any aircraft; any church or other place of worship;
381 or any place where the carrying of firearms is prohibited by
382 federal law. In addition to the places enumerated in this
383 subsection, the carrying of a stun gun, concealed pistol or
384 revolver may be disallowed in any place in the discretion of the
385 person or entity exercising control over the physical location of
386 such place by the placing of a written notice clearly readable at
387 a distance of not less than ten (10) feet that the "carrying of a
388 pistol or revolver is prohibited." No license issued pursuant to



389 this section shall authorize the participants in a parade or
390 demonstration for which a permit is required to carry a stun gun,
391 concealed pistol or revolver.

392 (14) A law enforcement officer as defined in Section 45-6-3,
393 a law enforcement officer as defined in Section 45-6-3 that is
394 retired, chiefs of police, sheriffs and persons licensed as
395 professional bondsmen pursuant to Chapter 39, Title 83,
396 Mississippi Code of 1972, shall be exempt from the licensing
397 requirements of this section. The licensing requirements of this
398 section do not apply to the carrying by any person of a stun gun,
399 pistol or revolver, knife, or other deadly weapon that is not
400 concealed as defined in Section 97-37-1.

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

407 (16) All fees collected by the Department of Public Safety
408 pursuant to this section shall be deposited into a special fund
409 hereby created in the State Treasury and shall be used for
410 implementation and administration of this section. After the
411 close of each fiscal year, the balance in this fund shall be
412 certified to the Legislature and then may be used by the
413 Department of Public Safety as directed by the Legislature.



414 (17) All funds received by a sheriff or police chief
415 pursuant to the provisions of this section shall be deposited into
416 the general fund of the county or municipality, as appropriate,
417 and shall be budgeted to the sheriff's office or police department
418 as appropriate.

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

422 (19) Any person holding a valid unrevoked and unexpired
423 license to carry stun guns, concealed pistols or revolvers issued
424 in another state shall have such license recognized by this state
425 to carry stun guns, concealed pistols or revolvers. The
426 Department of Public Safety is authorized to enter into a
427 reciprocal agreement with another state if that state requires a
428 written agreement in order to recognize licenses to carry stun
429 guns, concealed pistols or revolvers issued by this state.

430 (20) The provisions of this section shall be under the
431 supervision of the Commissioner of Public Safety. The
432 commissioner is authorized to promulgate reasonable rules and
433 regulations to carry out the provisions of this section.

434 (21) For the purposes of this section, the term "stun gun"
435 means a portable device or weapon from which an electric current,
436 impulse, wave or beam may be directed, which current, impulse,
437 wave or beam is designed to incapacitate temporarily, injure,



438 momentarily stun, knock out, cause mental disorientation or
439 paralyze.

440 **SECTION 3.** Section 45-1-101, Mississippi Code of 1972, is
441 amended as follows:

442 45-1-101. (1) This section may be referred to as the "HR218
443 Qualification Law."

444 (2) Any retired law enforcement officer who resides in this
445 state and for whom the law enforcement agency from which the
446 officer retired does not participate in the necessary
447 certification for the retired officer to be certified according to
448 the Law Enforcement Officers Safety Act of 2004 found at Title 18,
449 Chapter 44, Section 926B, USC, or who does not reside in
450 convenient proximity to the law enforcement agency from which the
451 officer retired, may obtain the necessary certification from the
452 Mississippi Association of Chiefs of Police to be exempt from the
453 permit requirements of Section 45-9-101.

454 **SECTION 4.** This act shall take effect and be in force from
455 and after July 1, 2015.

