

By: Senator(s) Parker

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2496

1 AN ACT TO AMEND SECTION 45-1-101, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE DEPARTMENT OF PUBLIC SAFETY TO CREATE AND ISSUE
3 IDENTIFICATION CARDS FOR RETIRED LAW ENFORCEMENT OFFICERS IN
4 COMPLIANCE WITH FEDERAL LAW AUTHORIZING CERTAIN RETIRED LAW
5 ENFORCEMENT OFFICERS TO CARRY A CONCEALED WEAPON NATIONWIDE; TO
6 BRING FORWARD SECTION 45-9-101, MISSISSIPPI CODE OF 1972, FOR
7 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 45-1-101, Mississippi Code of 1972, is
10 amended as follows:

11 45-1-101. (1) This section may be referred to as the "HR218
12 Qualification Law."

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



21 (a) The Mississippi Association of Chiefs of
22 Police * * *; or

23 (b) Under any certification program offered by the
24 Department of Public Safety.

25 (3) The Department of Public Safety is authorized, but not
26 required, to create HR218 identification cards and annual
27 certification documentation, and is authorized to combine these
28 credentials into one (1) official document or permit. The
29 commissioner, by rule promulgated in compliance with the
30 Mississippi Administrative Procedures Law, may create a form and
31 procedure for application for an identification card, HR218
32 certification, or both, and may set a reasonable fee to be paid by
33 the applicants that will cover the expense to the department of
34 processing applications and issuing cards. The department is not
35 required to recoup the cost of offering annual HR218
36 certification.

37 **SECTION 2.** Section 45-9-101, Mississippi Code of 1972, is
38 brought forward as follows:

39 45-9-101. (1) (a) The Department of Public Safety is
40 authorized to issue licenses to carry stun guns, concealed pistols
41 or revolvers to persons qualified as provided in this section.
42 Such licenses shall be valid throughout the state for a period of
43 five (5) years from the date of issuance. Any person possessing a
44 valid license issued pursuant to this section may carry a stun
45 gun, concealed pistol or concealed revolver.



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

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

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

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

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

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



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

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

77 (e) Does not chronically or habitually abuse controlled
78 substances to the extent that his normal faculties are impaired.
79 It shall be presumed that an applicant chronically and habitually
80 uses controlled substances to the extent that his faculties are
81 impaired if the applicant has been voluntarily or involuntarily
82 committed to a treatment facility for the abuse of a controlled
83 substance or been found guilty of a crime under the provisions of
84 the Uniform Controlled Substances Law or similar laws of any other
85 state or the United States relating to controlled substances
86 within a three-year period immediately preceding the date on which
87 the application is submitted;

88 (f) Does not chronically and habitually use alcoholic
89 beverages to the extent that his normal faculties are impaired.
90 It shall be presumed that an applicant chronically and habitually
91 uses alcoholic beverages to the extent that his normal faculties
92 are impaired if the applicant has been voluntarily or
93 involuntarily committed as an alcoholic to a treatment facility or
94 has been convicted of two (2) or more offenses related to the use
95 of alcohol under the laws of this state or similar laws of any



96 other state or the United States within the three-year period
97 immediately preceding the date on which the application is
98 submitted;

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

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

104 (i) Has not been voluntarily or involuntarily committed
105 to a mental institution or mental health treatment facility unless
106 he possesses a certificate from a psychiatrist licensed in this
107 state that he has not suffered from disability for a period of
108 five (5) years;

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

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

114 (l) Is not disqualified to possess a weapon based on
115 federal law.

116 (3) The Department of Public Safety may deny a license if
117 the applicant has been found guilty of one or more crimes of
118 violence constituting a misdemeanor unless three (3) years have
119 elapsed since probation or any other conditions set by the court
120 have been fulfilled or expunction has occurred prior to the date



on which the application is submitted, or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years. The department shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

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

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

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

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

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

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



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

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

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

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

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

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

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



170 (e) A waiver authorizing the Department of Public
171 Safety access to any records concerning commitments of the
172 applicant to any of the treatment facilities or institutions
173 referred to in subsection (2) and permitting access to all the
174 applicant's criminal records.

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

179 (b) The Department of Public Safety shall forward a
180 copy of the applicant's application to the sheriff of the
181 applicant's county of residence and, if applicable, the police
182 chief of the applicant's municipality of residence. The sheriff
183 of the applicant's county of residence and, if applicable, the
184 police chief of the applicant's municipality of residence may, at
185 his discretion, participate in the process by submitting a
186 voluntary report to the Department of Public Safety containing any
187 readily discoverable prior information that he feels may be
188 pertinent to the licensing of any applicant. The reporting shall
189 be made within thirty (30) days after the date he receives the
190 copy of the application. Upon receipt of a response from a
191 sheriff or police chief, such sheriff or police chief shall be
192 reimbursed at a rate set by the department.



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

196 (i) Issue the license;

197 (ii) Deny the application based solely on the
198 ground that the applicant fails to qualify under the criteria
199 listed in subsections (2) and (3) of this section. If the
200 Department of Public Safety denies the application, it shall
201 notify the applicant in writing, stating the ground for denial,
202 and the denial shall be subject to the appeal process set forth in
203 subsection (7); or

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

209 (d) In the event a legible set of fingerprints, as
210 determined by the Department of Public Safety and the Federal
211 Bureau of Investigation, cannot be obtained after a minimum of two
212 (2) attempts, the Department of Public Safety shall determine
213 eligibility based upon a name check by the Mississippi Highway
214 Safety Patrol and a Federal Bureau of Investigation name check
215 conducted by the Mississippi Highway Safety Patrol at the request
216 of the Department of Public Safety.



217 (7) (a) If the Department of Public Safety denies the
218 issuance of a license, or suspends or revokes a license, the party
219 aggrieved may appeal such denial, suspension or revocation to the
220 Commissioner of Public Safety, or his authorized agent, within
221 thirty (30) days after the aggrieved party receives written notice
222 of such denial, suspension or revocation. The Commissioner of
223 Public Safety, or his duly authorized agent, shall rule upon such
224 appeal within thirty (30) days after the appeal is filed and
225 failure to rule within this thirty-day period shall constitute
226 sustaining such denial, suspension or revocation. Such review
227 shall be conducted pursuant to such reasonable rules and
228 regulations as the Commissioner of Public Safety may adopt.

229 (b) If the revocation, suspension or denial of issuance
230 is sustained by the Commissioner of Public Safety, or his duly
231 authorized agent pursuant to paragraph (a) of this subsection, the
232 aggrieved party may file within ten (10) days after the rendition
233 of such decision a petition in the circuit or county court of his
234 residence for review of such decision. A hearing for review shall
235 be held and shall proceed before the court without a jury upon the
236 record made at the hearing before the Commissioner of Public
237 Safety or his duly authorized agent. No such party shall be
238 allowed to carry a stun gun, concealed pistol or revolver pursuant
239 to the provisions of this section while any such appeal is
240 pending.



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

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

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



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

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

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

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



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

292 (b) The Department of Public Safety shall forward the
293 full set of fingerprints of the applicant to the appropriate
294 agencies for state and federal processing. The license shall be
295 renewed upon receipt of the completed renewal application and
296 appropriate payment of fees.

297 (c) A licensee who fails to file a renewal application
298 on or before its expiration date must renew his license by paying
299 a late fee of Fifteen Dollars (\$15.00). No license shall be
300 renewed six (6) months or more after its expiration date, and such
301 license shall be deemed to be permanently expired. A person whose
302 license has been permanently expired may reapply for licensure;
303 however, an application for licensure and fees pursuant to
304 subsection (5) of this section must be submitted, and a background
305 investigation shall be conducted pursuant to the provisions of
306 this section.

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



314 carry a concealed weapon in his courtroom; any polling place; any
315 meeting place of the governing body of any governmental entity;
316 any meeting of the Legislature or a committee thereof; any school,
317 college or professional athletic event not related to firearms;
318 any portion of an establishment, licensed to dispense alcoholic
319 beverages for consumption on the premises, that is primarily
320 devoted to dispensing alcoholic beverages; any portion of an
321 establishment in which beer or light wine is consumed on the
322 premises, that is primarily devoted to such purpose; any
323 elementary or secondary school facility; any junior college,
324 community college, college or university facility unless for the
325 purpose of participating in any authorized firearms-related
326 activity; inside the passenger terminal of any airport, except
327 that no person shall be prohibited from carrying any legal firearm
328 into the terminal if the firearm is encased for shipment, for
329 purposes of checking such firearm as baggage to be lawfully
330 transported on any aircraft; any church or other place of worship;
331 or any place where the carrying of firearms is prohibited by
332 federal law. In addition to the places enumerated in this
333 subsection, the carrying of a stun gun, concealed pistol or
334 revolver may be disallowed in any place in the discretion of the
335 person or entity exercising control over the physical location of
336 such place by the placing of a written notice clearly readable at
337 a distance of not less than ten (10) feet that the "carrying of a
338 pistol or revolver is prohibited." No license issued pursuant to



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

342 (14) A law enforcement officer as defined in Section 45-6-3,
343 chiefs of police, sheriffs and persons licensed as professional
344 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
345 1972, shall be exempt from the licensing requirements of this
346 section. The licensing requirements of this section do not apply
347 to the carrying by any person of a stun gun, pistol or revolver,
348 knife, or other deadly weapon that is not concealed as defined in
349 Section 97-37-1.

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

356 (16) All fees collected by the Department of Public Safety
357 pursuant to this section shall be deposited into a special fund
358 hereby created in the State Treasury and shall be used for
359 implementation and administration of this section. After the
360 close of each fiscal year, the balance in this fund shall be
361 certified to the Legislature and then may be used by the
362 Department of Public Safety as directed by the Legislature.



363 (17) All funds received by a sheriff or police chief
364 pursuant to the provisions of this section shall be deposited into
365 the general fund of the county or municipality, as appropriate,
366 and shall be budgeted to the sheriff's office or police department
367 as appropriate.

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

371 (19) Any person holding a valid unrevoked and unexpired
372 license to carry stun guns, concealed pistols or revolvers issued
373 in another state shall have such license recognized by this state
374 to carry stun guns, concealed pistols or revolvers. The
375 Department of Public Safety is authorized to enter into a
376 reciprocal agreement with another state if that state requires a
377 written agreement in order to recognize licenses to carry stun
378 guns, concealed pistols or revolvers issued by this state.

379 (20) The provisions of this section shall be under the
380 supervision of the Commissioner of Public Safety. The
381 commissioner is authorized to promulgate reasonable rules and
382 regulations to carry out the provisions of this section.

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



387 momentarily stun, knock out, cause mental disorientation or
388 paralyze.

389 **SECTION 3.** This act shall take effect and be in force from
390 and after July 1, 2015.

